FEDERAL REGISTER

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TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter E—Account Servicing

[Administration Letter 291 (451)]

PART 361—ROUTINE

SUBPART B—SERVICING FARM OWNERSHIP AND FARM HOUSING LOANS

PAYMENTS ON LOAN ACCOUNTS

1. Section 361.22 (d) (1), Title 6, Code of Federal Regulations (16 F. R. 12539) is amended to delete reference to Form FHA–528, "Annual Income Return." This form is no longer used to record the accumulated amounts matured on direct and insured Farm Ownership loans. Section 361.22 (d) (1), as amended, will read as follows:

§ 361.22 *Definitions.* * * *

(d) *Maturity status*—(1) *Direct and insured Farm Ownership loans.* A borrower with a direct or insured Farm Ownership loan will be current when his cumulative regular payments through the last preceding March 31 are equal to the accumulated amounts matured. Such a borrower will be prepaid or delinquent, respectively, when such regular payments are greater or less than such accumulated amounts matured.

(Sec. 41 (i) 60 Stat. 1066; 7 U. S. C. 1015 (i))

2. Section 361.24 (a) (1) and (2) (i), Title 6, Code of Federal Regulations (16 F. R. 12540) is amended to delete reference to Form FHA–528 and to provide for notification to the borrower by memorandum as to whether the borrower's income for the year was "normal or above normal" or "below normal" and the required payment on his account for the year. Section 361.24 (a) (1) and (2) (i), as amended, will read as follows:

§ 361.24 *Payment plans*—(a) *Farm Ownership loans.* * * *

(1) *Payment Plan I.* Payment Plan I applies to each borrower with a direct Farm Ownership loan whose loan was approved prior to November 1, 1946, and who signed Form FSA-LE 228, "Variable Payment Agreement," or Form FSA–550, "Promissory Note (Variable Payment Plan)" if he has not transferred to Payment Plan II. Payment Plan I applies also to a transferee who assumed the obligation of a variable payment transferor whose loan was approved prior to November 1, 1946, unless the transferor or transferee has signed Form FHA–165, "Variable-Payment Agreement." Under Payment Plan I, the amount to be matured each year will be determined by the County Supervisor from an analysis of the year's farm operations and on the basis of the borrower's ability to pay. The County Supervisor will notify the borrower by memorandum of the amount of the payment on his account to be made for the year.

(2) *Payment Plan II.* * * *

(i) On the basis of an analysis of the year's farm operations, the County Supervisor will determine each year following the borrower's first full crop year on the farm whether the borrower's income for the year was "normal or above-normal" or "below-normal," unless deferred payments have been authorized. If deferred payments have been authorized, the first such determination will be made for the year for which the first full annual installment is scheduled on the promissory note. The County Supervisor will notify the borrower by memorandum of such determination and of the minimum required payment on his account for the year. Such minimum required payment will never exceed the amount of one annual installment on the note plus other charges for the year.

(Sec. 41 (i), 60 Stat. 1066; 7 U. S. C. 1015 (i). Interprets or applies sec. 48, 60 Stat. 1070, sec. 48, 50 Stat. 531; 7 U. S. C. 1022)

[SEAL] DILLARD B. LASSETER,
Administrator,
Farmers Home Administration.

NOVEMBER 14, 1952.

Approved: November 26, 1952.

CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52–12723; Filed, Dec. 1, 1952; 8:54 a. m.]

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

[FHA Instruction 465.5]

PART 372—SECURITY SERVICING AND LIQUIDATIONS; FARM OWNERSHIP LOANS

SUBPART E—MANAGEMENT AND DISPOSITION OF ACQUIRED FARMS

Subpart E of Part 372, Title 6, Code of Federal Regulations (14 F. R. 5703, 15 F.R. 651, 16 F. R. 5411) is revised to read as follows:

Sec.
372.81 General.
372.82 Delegation of authority.
372.83 State Office routine subsequent to acquisition of farms.
372.84 Miscellaneous matters pertaining to to the sale of acquired farms.
372.85 Easements and rights-of-way.

AUTHORITY: §§ 372.81 to 372.85 issued under sec. 41 (i), 60 Stat. 1066, sec. 4 (c), 64 Stat. 98; 7 U. S. C. 1015 (i), 40 U. S. C. 442 (c). Interpret or apply secs. 43 (b), 51, 60 Stat. 1067, 1070; 7 U. S. C. 1017 (b), 1025. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 372.81 *General.* This subpart prescribes the authorities, policies, and procedures for the management of acquired farms from the time title to such farms is vested in the United States until they are sold or otherwise disposed of, and for their sale or other disposition. However, if the acquired farm represents an asset of a State Rural Rehabilitation Corporation and an agreement, pursuant to section 2 (f) of the Rural Rehabilitation Corporation Trust Liquidation Act (Public Law 499, 81st Congress) (hereinafter referred to as a "section 2 (f) agreement") is not currently in effect, the State Director will not sell the property until otherwise authorized but will retain it in inventory and manage it in the same manner as stipulated for other acquired farms.

(a) *Applicability.* For the purposes of this subpart, acquired farms are farms which before acquisition were security for:

(1) Direct loans made pursuant to title I of the Bankhead-Jones Farm Tenant Act, as amended, including such loans made under a section 2 (f) agreement.

(2) Loans insured under title I of the Bankhead-Jones Farm Tenant Act, as amended.

(3) Credit sales of farms pursuant to sections 43 and 51 of the Bankhead-Jones Farm Tenant Act, as amended, and Public Law 563, 79th Congress.

(4) Credit sales by a State Rural Rehabilitation Corporation, directly or under an agreement with the Secretary of Agriculture.

(5) Loans for farm improvements or farm development made from Loans, Grants, and Rural Rehabilitation funds.

(6) Loans where the note and mortgage were assigned to the Government as security for, or the payment of, loans to, or in liquidation of, Defense Relocation Corporations, and Land Leasing and Land Purchasing Associations.

(7) The following types of Operating loans:

(i) Production and Subsistence loans.

(ii) Rural Rehabilitation loans.

(iii) Emergency Crop and Feed loans.

(iv) Flood, and Flood and Windstorm Restoration loans, made during the fiscal years 1944, 1945, and 1946.

(b) *Expeditious disposition of acquired farms.* Acquired farms will be sold or otherwise disposed of as expeditiously as possible consistent with the protection of the Government's investment in such farms.

§ 372.82 *Delegation of authority.* Subject to the policies and procedures prescribed in this subpart:

(a) The State Director is authorized to:

(1) Sell acquired farms and to execute deeds and other documents and instruments necessary in connection with such sales.

(b) The State Director or his delegate is authorized to:

(1) Lease or operate acquired farms.

(2) Execute caretakers' agreements.

(3) Enter into agreements prorating the payment of rent as between the Government and purchasers of acquired farms.

(4) When appropriate, pay taxes or to make payments in lieu of taxes on acquired farms.

(5) Authorize such repairs and maintenance of acquired farms as may be necessary to protect the Government's interest.

§ 372.83 *State Office routine subsequent to acquisition of farms.* When title to a farm becomes vested in the Government the State Director will take such of the following actions with respect to each acquired farm as may be appropriate:

(a) *Suitability of acquired farms for title I purposes.* If the farm is, or can be developed into, or used in the development of an efficient family-type unit having a total value, as repaired, improved, or enlarged, not exceeding the average value of efficient family-type units in the county, the State Director will determine that the farm is suitable for title I purposes. The County Supervisor will be advised when the decision is reached as to the suitability or nonsuitability of an acquired farm for title I purposes.

(b) *Care of growing crops on acquired farms.* At the time of acquisition, upon the advice of the representative of the Office of the Solicitor, the State Director shall instruct the County Supervisor with respect to the disposition to be made of any crops growing on acquired farms.

(c) *Care and leasing of acquired farms.* The State Director will furnish the County Supervisor with instructions regarding the care and leasing of acquired farms.

(1) *Caretaking.* Whenever it is impracticable to lease an acquired farm, and caretaking is deemed necessary to protect the Government's interest, such a farm may be placed under a caretaker's arrangement on terms approved by the State Director. Form FHA-529, "Caretaker's Agreement," to be signed by the caretaker, should be specific with respect to such items as the period covered by the agreement, care of the property, cultivation, harvesting, and care of growing crops, and the compensation to be allowed the caretaker for his services. Compensation allowed the caretaker for his services will be paid by use of Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal." In no event will the Government operate an acquired farm under a caretaker's agreement for a period exceeding one year from the date of acquisition. No provision shall be included in the caretaker's agreement which will interfere with the expeditious sale or other disposition of the farm.

(2) *Leasing.* Acquired farms will be leased for the current cropping season, or the remainder thereof, when it is determined that such leasing is necessary to protect the Government's investment. Form FHA-435, "Lease of Farm," will be used in such cases. The term of a lease may not exceed one year. Subject to the limitations on the period for sale, a farm may be leased for subsequent periods when necessary to protect the Government's interest. All leases will be on the best reasonable terms obtainable as determined by the State Director. Rent must be payable in cash, but the amount may be based on the market value of shares of agricultural commodities as provided on Form FHA-435. Leases will be on terms that will not delay unnecessarily the sale of farms.

(d) *Maintenance and minor repairs on acquired farms.* (1) Expenses for maintenance and minor repairs necessary to protect the Government's interest, which

cannot practicably be deferred until after sale, may be incurred and paid by the Government. Where the contemplated expenditures for maintenance or repairs amount to $500 or less, the State Director will authorize the work to be done on a confirmatory basis. Upon completion of the maintenance or repairs a certified invoice or Standard Form 1034 will be obtained from the contractor and forwarded to the appropriate Area Finance Office for payment. Such invoice or voucher must include an itemization of the maintenance or repairs.

(2) Where the contemplated expenditures for maintenance or repairs amount to more than $500, the Area Finance Office will prepare and issue an invitation to bid for the work to be performed.

(e) *Taxation on acquired farms.* Except as provided herein the Farmers Home Administration is required, in accordance with section 50 (a) of the Farmers Home Administration Act of 1946, to pay taxes on farms acquired on behalf of the Government which are determined to be suitable for title I purposes, and, in accordance with section 50 (b) of the act, to make payments in lieu of taxes on farms acquired on behalf of the Government which are determined to be unsuitable for title I purposes.

(1) Taxes will be paid on acquired real property which represents an asset of a State Rural Rehabilitation Corporation, provided:

(i) There is a section 2 (f) agreement in effect whereunder the corporation or agency or official designated by the State legislature has authorized the Government to pay such taxes; and

(ii) The real estate would be taxable under State laws if it had been transferred to such corporation or agency or official under section 2 (d) of the Rural Rehabilitation Corporation Trust Liquidation Act, with no return transfer to the United States under a section 2 (f) agreement.

(2) In the absence of a section 2 (f) agreement tax payments will not be made on acquired farms which represent assets of a State Rural Rehabilitation Corporation.

(Sec. 50, 60 Stat. 1070, sec. 2 (f), 64 Stat. 99; 7 U. S. C. 1024, 40 U. S. C. 440 (f))

(f) *Sale of acquired farms within the Farm Ownership Program.* Acquired farms will be sold as expeditiously as possible, and will not be held for an unreasonable length of time for within-program disposal.

(1) *Determination of selling price.* The State Director will establish a selling price, based upon the normal earning capacity value of the farm, taking into consideration such amounts as may be required to repair, improve, or enlarge the farm to meet established Farm Ownership minimum standards. If the acquired land, or a part thereof, will be sold for the purpose of enlarging another Farm Ownership unit, the sales price of the land to be added will be established on the basis of an earning capacity report, prepared for the enlarged farm in accordance with §§ 322.1 to 322.3 of this chapter and will be consistent with the normal market value of comparable properties in the community and must be within the certified value for the enlarged farm. If there are buildings on the land being added, and such buildings are needed by the borrower in carrying out his farming operations, consideration will be given to the use value of such buildings, to be acquired by the purchaser, in arriving at the sales price of the real property being sold to the borrower. If there are buildings that will not be sold to the borrower, such buildings should be disposed of in accordance with §§ 372.101 to 372.109 of this chapter prior to consummation of the sale of the land, and if such buildings are not removed from the land being sold by the date of the sale, adequate provisions will be stipulated in the sales instruments to allow sufficient time for removal. Also, the fair and reasonable value of the Government's interest in the mineral rights will be considered in determining the selling price.

(2) *Disposition of growing crops.* Growing crops, when not harvested under a caretaker's agreement, may be sold with the farm or separately. The State Director will determine the selling price thereof separately from that of the farm. Such crops may be sold for cash, but title I funds may not be loaned to enable a purchaser to make such purchases. When growing crops are sold on credit to a person eligible for the benefits of title I, either with the farm or separately, a separate note will be taken to evidence the sale price, payable not later than when the crops will be harvested. The separate note will be secured by a lien on the growing crops. When the growing crops are sold to any person not eligible for the benefits of title I, such crops will be sold pursuant to §§ 372.101 to 372.109.

(3) *Selection of purchaser.* The purchaser will be selected from applicants tentatively approved in accordance with §§ 316.21 to 316.24 of this chapter with preference accorded veterans as provided in §§ 316.1 to 316.6 and §§ 321.1 to 321.8 of this chapter.

(4) *Sale to present Farm Ownership borrower.* An acquired farm, or part thereof, may be sold to a present Farm Ownership borrower, provided the State Director determines (i) the borrower's present unit is not an efficient family-type unit, and (ii) the addition of the acquired unit, or part thereof, will result in the borrower having an efficient family-type unit.

(g) *Methods of selling acquired farms within the Farm Ownership Program.* Acquired farms determined to be suitable for title I purposes may be sold within the program to present Farm Ownership borrowers or to applicants for Farm Ownership loans under such of the following methods as may be prescribed by the State Director.

(1) *Sale to Farm Ownership borrower.* An acquired farm, or part thereof, may be sold to a Farm Ownership borrower in a manner consistent with the policies and procedures for making a subsequent loan for farm enlargement purposes, on a credit basis, through a subsequent direct loan, through a subsequent insured mortgage loan or through a new direct or insured mortgage loan. If additional funds are needed by the Farm Ownership borrower with which to perform farm development necessary to make the enlarged farm an efficient family-type unit, such funds may be provided, in the case of sale on credit, through a direct loan processed simultaneously with the credit sale. In the case of sales through either new or subsequent direct or insured mortgage loans, such funds may be included in the loan made in connection with the purchase of the land.

(2) *Sale to Farm Ownership applicant.* The sale of acquired real estate to an approved Farm Ownership applicant, other than a present Farm Ownership borrower, may be accomplished by a sale on a credit basis when funds are not needed for repairs, improvements or enlargement; by a sale on a credit basis when funds are needed for repairs, improvements or enlargement, or by a sale through a direct or insured loan, which may include funds for repairs, improvements or enlargement. Where the State Director determines it to be impracticable to sell an acquired farm to a Farm Ownership applicant by any other method, the sale may be accomplished through a direct or insured loan.

(h) *Disposal of farms outside the Farm Ownership Program.* Acquired farms, or parts thereof, determined to be not suitable for title I purposes and suitable farms which cannot be sold to an eligible purchaser within a reasonable time will be sold as expeditiously as possible outside the program by the Farmers Home Administration unless special reasons require their transfer to the appropriate Government agency for disposal. The State Director is authorized to sell such farms at public or private sale to any individual at the best price obtainable, after public notice. Such sale may be accomplished by selling the land and buildings separately if such method of sale will result in the Government realizing a greater return from the sale. The sale may be either for cash or on terms of at least twenty percent cash with the balance secured by a first mortgage on the property and payable in equal annual installments within five years with interest at five percent on the unpaid principal payable annually.

(Secs. 1 (a), 43 (d), 44 (b), 50, 60, Stat. 1072, 1068, 1069, 1070, sec. 2 (f), 64 Stat. 99; 7 U. S. C. 1001 (a), 1017 (d), 1018 (b), 1024, 40 U. S. C. 440 (f))

§ 372.84 *Miscellaneous matters pertaining to the sale of acquired farms.* The following general provisions will apply in connection with the sale of acquired farms:

(a) *Applications.* Applications to purchase acquired farms within the Farm Ownership Program will be processed in substantially the same manner as applications for initial loans as prescribed in Parts 331 and 332 of this chapter.

(b) *Type of deed form.* Conveyances will be made by deed without warranty and will be executed by the State Director. If legally possible, and the sale is to be made within the Farm Ownership Program, the deed should create an estate with the right of survivorship. All minerals or mineral rights of the

Government will be conveyed to the purchaser.

(c) *Abstracts of title.* Abstracts of title owned by the Government which cover only the land involved in a particular sale will be sold with the farm by adequate provision in the sales agreement. When the sale is on credit terms or a loan is made in connection with the sale, the abstract will be retained by the Government as additional security until the security instruments securing the credit sale or loan are fully satisfied.

(d) *Sales expense.* No expenses incident to the sale, such as revenue stamps, recording of mortgage, intangible taxes, or title insurance when required, will be borne by the Government.

(e) *Title clearance.* Title clearance for farms suitable for title I purposes will be effected in accordance with the applicable provisions of §§ 327.1 to 327.8 of this chapter.

(f) *Closing sales of acquired farms.* Each sale of an acquired farm will be closed in accordance with closing instructions issued by the representative of the office of the Solicitor.

(g) *Cancellation of outstanding leases.* When an outstanding lease on an acquired farm is to be canceled pursuant to the terms of the sale, Form FHA–244, "Cancellation of Lease," will be used, one signed copy of which will be delivered to the lessee.

(h) *Sale subject to outstanding lease.* When it is necessary or desirable, the State Director may sell an acquired farm subject to an outstanding agricultural or mineral lease. In such cases the State Director will address a letter to the lessee informing him of the conveyance by the Government of its interest under the lease and furnish him with the name and address of the purchaser of the farm.

(i) *Proration of rent.* Ordinarily lease benefits will be sold with the property, however, when an acquired farm, or part thereof, is under lease which is not sold with the land and the Government's interest canceled at the time of sale, the rent has not become due before the sale is closed, and the lease does not contain provisions governing the proration of rent in the event of sale of the farm, the State Director will arrange for any prorated distribution of rent between the Government and the purchaser which is found by the State Director to be equitable and not detrimental to the financial interest of the Government.

(Sec. 9, 60 Stat. 1080; 7 U. S. C. 1031)

§ 372.85 *Easements and rights-of-way.* Generally, it will not be the policy of the Farmers Home Administration to grant or sell easements or rights-of-way on acquired real property, title to which is vested in the Government. When a request is received for an easement or right-of-way on such acquired real property, the State Director will make a determined effort to dispose of the property, thereby making it possible for the easement or right-of-way to be obtained from the purchaser of such property. In a case where it is impossible to sell the property, thereby enabling the purchaser to enter into an easement or right-of-way permit, the State Director will refer the matter to the National Office, giving a complete report on the case. Such a case will be handled on an individual case basis.

(Secs. 43 (d), 60 Stat. 1068; 7 U. S. C. 1017 (d))

[SEAL] DILLARD B. LASSETER,
Administrator,
Farmers Home Administration.

NOVEMBER 7, 1952.

Approved: November 26, 1952.

CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52–12724; Filed, Dec. 1, 1952; 8:55 a. m.]

TITLE 7—AGRICULTURE

Chapter III—Bureau of Entomology and Plant Quarantine, Department of Agriculture

[B. E. P. Q. 542, Rev., Amdt. 2]

PART 319—FOREIGN QUARANTINE NOTICES

SUBPART—FRUITS AND VEGETABLES

ADMINISTRATIVE INSTRUCTIONS PRESCRIBING METHOD OF TREATMENT OF CERTAIN FRUITS FROM MEXICO

Pursuant to the authority conferred upon the Chief of the Bureau of Entomology and Plant Quarantine by § 319.56–2 of the regulations supplemental to the Fruit and Vegetable Quarantine (Notice of Quarantine No. 56, 7 CFR 319.56), the administrative instructions (7 CFR Supp. 319.56–2g) prescribing methods of treatment of oranges, grapefruit, tangerines, and Manila mangoes from Mexico are hereby amended in the following respects:

1. Section 319.56–2g (a) (1) is amended to read as follows:

(1) Either of the approved vapor-heat schedules of treatment specified in paragraph (b) of this section will meet the treatment requirements imposed under § 319.56–2 as a condition of the issuance of permits for (i) the importation from Mexico of commercially-sound oranges, free of leaves and other plant debris, or (ii) the importation from Mexico during the 5-month period beginning November 1 and ending the following March 31, of commercially-sound tangerines, with tight skins and free from air pockets or puffiness, and free of leaves and other debris.

2. Section 319.56–2g (a) (2) is amended to read as follows:

(2) The approved vapor-heat schedule of treatment specified in paragraph (b) (1) of this section will meet the treatment requirements imposed under § 319.56–2 as a condition of the issuance of permits for the importation from Mexico of commercially sound grapefruit and Manila mangoes, free of leaves and other plant debris.

The purpose of the foregoing amendment is to authorize an additional schedule of vapor-heat treatment, previously authorized for oranges only, as a condition for the issuance of permits for the importation from Mexico during the 5-month period beginning November 1 and ending the following March 31, of commercially sound tangerines, with tight skins and free from air pockets or puffiness, and free of leaves and other debris. Accordingly, the foregoing amendment relieves restrictions now in effect. In order to be of maximum benefit to shippers, the new authorization should be made effective as soon as possible. Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1003) it is found upon good cause that notice and public procedure on the foregoing amendment are unnecessary, impracticable, and contrary to the public interest, and since this amendment relieves restrictions it may properly be made effective under said section 4 less than 30 days after its publication in the FEDERAL REGISTER.

(Sec. 5, 37 Stat. 316; 7 U. S. C. 159)

This amendment shall be effective November 20, 1952.

Done at Washington, D. C., this 20th day of November, 1952.

[SEAL] AVERY S. HOYT,
Chief,
Bureau of Entomology and Plant Quarantine.

[F. R. Doc. 52–12751; Filed, Dec. 1, 1952; 8:59 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Docket No. AO–226–A2]

PART 925—MILK IN THE PUGET SOUND, WASHINGTON, MARKETING AREA

SUBPART—ORDER RELATIVE TO HANDLING

Sec.

CLASSIFICATION

MINIMUM PRICES

DETERMINATION OF BASE

DETERMINATION OF UNIFORM PRICE

PAYMENTS

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

MISCELLANEOUS PROVISIONS

AUTHORITY: §§ 925.1 to 925.102 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 925.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Puget Sound, Washington, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional finding.* It is hereby found and determined that good cause exists for making this order, as amended, effective December 1, 1952. Such action is necessary in the public interest in order to promote the orderly marketing of milk for the Puget Sound marketing area. Accordingly, any further delay in the effective date of this order, as amended, will impair orderly marketing. The provisions of this order are well known to handlers. The public hearing was held March 11–14, 1952, the recommended decision was published in the FEDERAL REGISTER (17 F. R. 6777) on July 24, 1952, and the final decision (17 F. R. 10564) was executed by the Secretary on November 13, 1952. Reasonable time under the circumstances has been afforded persons affected to prepare for its effective date. It would be contrary to the public interest, therefore, to delay such effective date for 30 days after publication of the order in the FEDERAL REGISTER (See sec. 4 (c) Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237).

(b) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order, as amended) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of its issuance, and who during the determined representative period (July 1952) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Puget Sound, Washington, marketing area shall be in conformity to and in compliance with the following terms and conditions:

DEFINITIONS

§ 925.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

§ 925.2 *Secretary.* "Secretary" means the Secretary of Agriculture, or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 925.3 *Department.* "Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in this subpart.

§ 925.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 925.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which includes members who are producers as defined in § 925.12 and which the Secretary determines, after application by the association:

(a) To be qualified under the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have its entire organization and all of its activities under the control of its members; and

(c) To be currently engaged in making collective sales of or marketing milk or its products for its members.

§ 925.6 *Puget Sound, Washington, Marketing Area.* "Puget Sound, Washington, Marketing Area" (hereinafter called the "marketing area") means all territory lying west of range 8E in Whatcom, Skagit, Snohomish, and King Counties; all territory lying within townships 23N and 24N within range 8E in King County; all territory lying west of range 8E and north of township 18N in Pierce County, except Fox, McNeil, and Anderson Islands and the peninsula on which Lake Bay and Gig Harbor are located northward to the Kitsap County line; all territory lying within Thurston County; all territory, except the town of Vader, lying west of range 5E in Lewis County; all territory lying east of range 10W and north of township 12N in Pacific County; and all territory lying

south of township 19N in Grays Harbor County; all in the State of Washington. As used in this section, "territory" shall include all municipal corporations, Federal military reservations, facilities and installations, and state institutions lying wholly or partly within the above-described area. "District No. 1" of the marketing area shall include that part of the marketing area lying within the counties of King, Pierce, Snohomish, Thurston, and Grays Harbor. "District No. 2" of the marketing area shall include that part of the marketing area lying within the counties of Skagit and Whatcom, and "District No. 3" of the marketing area shall include that part of the marketing area lying within the counties of Lewis and Pacific.

§ 925.7 *Plant.* "Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment which is maintained and operated primarily for the receiving, handling and processing of milk or milk products.

§ 925.8 *Fluid milk plant.* "Fluid milk plant" means any plant, other than the plant of a producer-handler, located in the marketing area which is approved by any health authority having jurisdiction in the marketing area as a plant from which milk may be distributed for consumption as fluid milk in the marketing area, and from which during the month Class I milk pursuant to § 925.41 (a) (1) is disposed of (including sales at such plant, plant store or eating place) within the marketing area.

§ 925.9 *Country plant.* "Country plant" means any plant, other than a fluid milk plant or the plant of a producer-handler, which is approved by any health authority having jurisdiction within the marketing area for the receiving of milk qualified for consumption as fluid milk within the marketing area: *Provided,* That any such plant located outside of the marketing area other than the plant at Sequim operated by the Kristoferson Dairy, Inc., (or its successor), and the plant of the Dungeness-Sequim Cooperative Creameries at Dungeness shall not be a country plant if the percentage of either butterfat or skim milk in milk so qualified which is received at the plant from dairy farmers and moved in fluid form as milk to a fluid milk plant, or disposed of within the marketing area as Class I milk pursuant to § 925.41 (a) (1), is less than:

(a) 50 percent in the current month during the period October through December; or

(b) 20 percent in the current month during the period January through September, except that if the percentage was more than 50 percent for the entire period of October through December immediately preceding no percentage shall be required for such months of January through September:

And provided further, That any plant which otherwise meets the requirements of this section may withdraw from country plant status for any month in the January–September period if the operator of the plant files with the market administrator, prior to the first day of such month, a written request for such withdrawal.

§ 925.10 *Nonpool plant.* "Nonpool plant" means any plant other than a fluid milk plant or a country plant.

§ 925.11 *Dairy farmer.* "Dairy farmer" means any person who is engaged in the production of milk.

§ 925.12 *Producer.* "Producer" means any dairy farmer, other than a producer-handler, who produces milk of dairy cows under a dairy farm permit or rating issued by an appropriate health authority having jurisdiction in the marketing area, for the production of milk qualified for disposition to consumers in fluid form within the marketing area.

§ 925.13 *Producer milk.* "Producer milk" or "milk received from producers" means milk qualified as described in § 925.12 and either received directly from a farm at a fluid plant or country plant or caused to be diverted by a handler for his account from such a plant to a nonpool plant: *Provided,* That milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it was diverted.

§ 925.14 *Other source milk.* "Other source milk" means (a) all skim milk and butterfat received from a producer-handler (or the plant of a producer-handler) in any form (including bottled products), and (b) all other skim milk and butterfat other than in (1) producer milk, and (2) milk and milk products received from fluid milk plants and country plants.

§ 925.15 *Handler.* "Handler" means:

(a) Any person engaged in the handling of milk in his capacity as the operator of a fluid milk plant, a country plant or any other plant from which milk in any of the forms specified in § 925.41 (a) is disposed of to any place or establishment within the marketing area other than a plant: *Provided,* That this paragraph shall not be deemed to include any such person with respect to any of the items specified in § 925.41 (a) disposed of to military or other ocean transport vessels leaving the marketing area if the items so disposed of originated at a plant located outside the marketing area and were not received or processed at any fluid milk plant or country plant; and

(b) Any cooperative association, which is not a handler pursuant to paragraph (a) of this section, with respect to producer milk caused to be diverted for the account of such cooperative association from a fluid milk plant or a country plant to a nonpool plant.

§ 925.16 *Producer-handler.* "Producer-handler" means any person who is both a dairy farmer and a handler, and who processes milk from his own farm production and distributes all or a portion of such milk within the marketing area in any of the forms specified in § 925.41 (a), but who received no milk from producers: *Provided,* That (a) the maintenance, care and management of the dairy animals and other resources necessary to produce milk is the personal enterprise of and at the personal risk of such person in his capacity as a dairy farmer, and (b) the processing, packaging, and distribution of the milk is the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 925.17 *Base.* "Base" means a quantity of milk, expressed in pounds per day or per month, computed pursuant to § 925.60 (a) and (b) respectively.

§ 925.18 *Base milk.* "Base milk" means: (a) Milk delivered by a producer during a month in the period February through July, inclusive, of each year beginning with 1954, and during each month in the period March through July 1953, inclusive, which is (1) not in excess of his daily base computed pursuant to § 925.60 (a), multiplied by the number of days of delivery in such month, or (2) not in excess of his base computed pursuant to § 925.60 (b): *Provided,* That with respect to any producer on "every-other-day" delivery to a fluid milk plant or country plant, the days of nondelivery shall be considered as days of delivery for the purposes of this paragraph; and (b) all milk delivered by a producer in each of the months of August, September, October, November, December, and January of each year effective August 1, 1953, and during the months of October 1952 through February 1953.

§ 925.19 *Excess milk.* "Excess milk" means milk delivered by a producer in excess of base milk.

MARKET ADMINISTRATOR

§ 925.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be designated by, and shall be subject to removal at the discretion of the Secretary.

§ 925.21 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 925.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety

thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 925.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 925.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 925.30 to 925.32, inclusive; or

(2) Made one or more of the payments pursuant to §§ 925.80 to 925.88, inclusive.

(i) On or before the 13th day after the end of each month, report to each cooperative association (or its duly designated agent) which so requests the class utilization of milk caused to be delivered by such cooperative association directly from farms of producers who are members of such cooperative association to each handler to whom the cooperative association sells milk. For the purpose of this report, the milk caused to be so delivered by such a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class;

(j) On or before the 13th day after the end of each month, notify:

(1) Each handler whose total value of milk is computed pursuant to § 925.70 (a) of:

(i) The amounts and values of his producer milk in each class and the totals of such amounts and values;

(ii) The amount of any charge made pursuant to § 925.70 (a) (6);

(iii) The uniform prices for base milk and excess milk;

(iv) The totals of the amounts computed in the manner provided by § 925.80 (a);

(v) The amount due such handler from the producer-settlement fund or the amount to be paid by such handler to the producer-settlement fund, as the case may be; and

(vi) The totals of the amounts required to be paid by such handler pursuant to §§ 925.87 and 925.88.

(2) Each handler whose total value of milk is computed pursuant to § 925.70 (b) of the pounds of other source milk on which payment is required to be made and the amount due the producer-settlement fund from such handler.

(k) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum price for Class I milk pursuant to § 925.51 (a) and the Class I butterfat differential pursuant to § 925.52 (a), both for the current month; and the minimum price for Class II milk pursuant to § 925.51 (b) and the Class II butterfat differential pursuant to § 925.52 (b), both for the preceding month; and

(2) On or before the 13th day of each month, the uniform price(s) computed pursuant to § 925.71 and the butterfat differential(s) computed pursuant to § 925.82, both applicable to producer milk received during the preceding month; and

(l) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS AND FACILITIES

§ 925.30 *Monthly reports of receipts and utilization.* On or before the 8th day of each month and in the detail and on forms prescribed by the market administrator, each person who is a handler pursuant to § 925.15 (a), except a producer-handler, shall report for the preceding month to the market administrator with respect to milk and milk products received at each of such handler's fluid milk plants and country plants, and at each of his plants where milk or milk products subject to payments required under § 925.70 (b) were handled; and each cooperative association which is a handler pursuant to § 925.15 (b) shall report with respect to milk diverted on its account during the preceding month, as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers;

(b) The quantities of skim milk and butterfat contained in milk and milk products received from other handlers;

(c) The quantities of skim milk and butterfat contained in other source milk received (except manufactured Class II milk products (1) disposed of in the form in which received without further processing by the handler, or (2) used to produce other Class II milk products).

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including the pounds of skim milk and butterfat on hand at the beginning and end of each month as milk and milk products;

(e) The aggregate quantities of base milk and excess milk received; and

(f) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

§ 925.31 *Payroll reports.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show:

(a) The total pounds of base milk and the total pounds of excess milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

(b) The amount of payment to each producer and cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 925.32 *Other reports.* At such times and in such manner as the market administrator may prescribe:

(a) Each handler shall report to the market administrator such information in addition to that required under § 925.30 as may be requested by the market administrator with respect to milk and milk products handled by him;

(b) Each producer-handler shall report to the market administrator relative to his receipts and utilization of milk and milk products.

§ 925.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to the information required to be reported pursuant to §§ 925.30, 925.31, and 925.32 and to payments required to be made pursuant to §§ 925.80 through 925.88.

§ 925.34 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 925.35 *Handler report to producers.* (a) In making payments to producers pursuant to § 925.80, each handler, on or before the 19th day of each month, shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month (1) the identification of the handler and the producer; (2) the total pounds of milk delivered by the producer and the average butterfat test thereof, the pounds of base and excess milk, and the pounds per shipment if such information is not

furnished to the producer each day of delivery; (3) the minimum rate(s) at which payment to the producer is required under the provisions of § 925.80; (4) the rate per hundredweight and amount of any premiums or payments above the minimum prices provided by the order; (5) the amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and (6) the net amount of payment to the producer.

(b) In making payment to a cooperative association in aggregate each handler upon request shall furnish to the cooperative association with respect to each producer for whom such payment is made, any or all of the above information specified in paragraph (a) of this section.

CLASSIFICATION

§ 925.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 925.30 shall be classified by the market administrator pursuant to the provisions of §§ 925.41 to 925.45, inclusive.

§ 925.41 *Classes of utilization.* Subject to the conditions set forth in §§ 925.42, 925.43 and 925.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in fluid or frozen form as milk, skim milk, skim milk drinks, buttermilk, flavored milk, flavored milk drink, and cream (sweet or sour), and used in the production of concentrated milk, flavored milk and flavored milk drinks not sterilized (but not including (i) those products commonly known as evaporated milk, condensed milk, and condensed skim milk (ii) flavored milk or flavored milk drink in hermetically sealed containers; and (iii) any item named in this subparagraph disposed of pursuant to paragraph (b) (3) of this section), (2) disposed of as any fluid mixture containing cream and milk or skim milk (but not including ice cream and other frozen dessert mixes) disposed of to a commercial processor, any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product, evaporated or condensed products, eggnog and yogurt, (3) contained in monthly inventory variations (4) shrinkage of producer milk in excess of that pursuant to paragraph (b) (4) of this section and shrinkage allocated to receipts from other handlers pursuant to § 925.42 (b), and (5) not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat (1) disposed of as (or used to produce, in the case of ice cream and frozen desserts and mixes for such products (liquid or powder), cottage cheese and aerated cream products) any product other than those included under paragraph (a) (1) and (2) of this section, (2) disposed of for livestock feed, (3) disposed of in bulk in any of the forms specified in paragraph (a) (1) of this section to bakeries, soup companies and candy manufacturing establishments in their capacity as such and to nonpool plants subject to the conditions of § 925.44 (c) (2), (4) in actual shrinkage of producer milk computed pursuant to § 925.42 but not in excess of 2 percent of the quantities of skim and butterfat, respectively, in producer milk, and (5) in actual shrinkage of other source milk computed pursuant to § 925.42.

§ 925.42 *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section, among the pounds of producer milk, other source milk, and receipts from other handlers: *Provided,* That if milk is transferred from a fluid milk plant or a country plant to a nonpool plant located on the same premises as the transferor plant, the transfer to the nonpool plant shall be reduced by an amount determined by multiplying the total shrinkage in such nonpool plant by the percentage which the amount so transferred is to the total receipts at such nonpool plant.

§ 925.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first received such skim milk or butterfat proves that such skim milk and butterfat should be classified as Class II milk.

(b) The burden shall rest upon each handler to establish the sources of milk and milk products required to be reported by him pursuant to § 925.30.

(c) Except as provided in § 925.44 (c) (1), any skim milk or butterfat classified in one class shall be reclassified if used or reused by any handler in another class.

§ 925.44 *Transfers.* Skim milk and butterfat moved in any of the forms specified in § 925.41 (a) (1) from one plant to another shall be assigned (separately) to each class in the following manner:

(a) From a country plant or fluid milk plant to a fluid milk plant: As Class I milk to the extent Class I milk is available at the transferee plant, subject to the following conditions:

(1) In the event the quantity transferred exceeds the total of receipts from producers and other handlers at the transferor plant, such excess shall be assigned last to the Class I available at the transferee plant:

(2) If more than one transferor plant is involved, the available Class I milk shall be assigned to the transferor plants in the following order:

(i) To fluid milk plants located in District No. 1;

(ii) To country plants located in District No. 1 or in the counties of Kitsap and Mason;

(iii) To fluid milk plants not located in District No. 1; and

(iv) To country plants not located in District No. 1 or in the counties of Kitsap and Mason.

(3) If Class I is not available in amounts equal to the sum of transfers in the manner indicated in subparagraph (2) of this paragraph, the receiving handler may designate to which plant the available Class I milk shall be assigned; and

(4) If at a plant located in District No. 1 or in the counties of Kitsap and Mason any receipts of skim milk or butterfat from any fluid milk plant(s) or country plant(s) similarly located are assigned to Class II milk, they shall be allocated to the uses stated in § 925.54 (a) (1) insofar as such uses are available after allocating to such uses the other source milk at such plant.

(b) From a country plant or fluid milk plant to a country plant: As Class II milk, subject to the following conditions:

(1) The skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the transferee plant after the subtraction pursuant to § 925.45 (b) (2) of other source milk at such plant and after the subtraction of producer shrinkage, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk;

(2) If more than one transferor plant is involved, the available Class II milk shall be assigned to the transferor plants in the following order:

(i) To country plants not located in District No. 1 or in the counties of Kitsap and Mason;

(ii) To fluid milk plants not located in District No. 1;

(iii) To country plants located in District No. 1 or in the counties of Kitsap and Mason; and

(iv) To fluid milk plants located in District No. 1;

(3) If Class II milk is not available in amounts equal to the sum of transfers in the manner indicated in subparagraph (2) of this paragraph, the receiving handler may designate to which plant the available Class II milk shall be assigned.

(4) If at a plant located in District No. 1 or in the counties of Kitsap and Mason any receipts of skim milk or butterfat from any fluid milk plant(s) or country plant(s) similarly located are assigned to Class II milk, they shall be allocated to the uses stated in § 925.54 (a) (1) insofar as such uses are available after allocating to such uses the other source milk at such plant.

(c) From a country plant or fluid milk plant to a nonpool plant:

(1) As Class I milk if the transfer is to a nonpool plant located outside the marketing area or to the plant of a producer-handler, except as provided for in subparagraph (2) of this paragraph.

(2) As Class II milk if the transfer is to a nonpool plant located in the marketing area or within any of the counties of Clallam, Jefferson, Grays Harbor Island, Kitsap and Mason, in the State of Washington, which is not engaged in the distribution of milk for consumption in fluid form: *Provided,* That if such nonpool plant disposes of skim milk or butterfat in any of the forms specified in

§ 925.41 (a) (1) to any other nonpool plant distributing milk in fluid form which is not located in the marketing area, such disposition up to the quantity of producer milk transferred to the first nonpool plant shall be classified as Class I milk: *Provided further,* That if the preceding proviso does not apply the transferred quantity shall be deemed to have been utilized first for the manufacture of Class II milk products other than evaporated milk in hermetically sealed cans, butter, nonfat dry milk solids, powdered whole milk, and cheddar cheese to the extent that such other Class II milk products were manufactured at such nonpool plant: *And provided also,* That if the market administrator is not permitted to audit the records of such nonpool plant for the purpose of use verification, the entire transfer shall be classified as Class I milk.

§ 925.45 *Computation of the quantity of producer milk in each class.* For each handler the market administrator shall:

(a) Correct for mathematical and for other obvious errors the monthly report submitted by such handler and compute the total pounds of skim milk and butterfat in each class;

(b) Allocate skim milk in the following manner;

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk shrinkage allowed pursuant to § 925.41 (b) (4);

(2) Subtract from the pounds of skim milk in Class II milk the pounds of skim milk in other source milk received and in overage allocated to other source milk (§ 925.70 (a) (5)): *Provided,* That if the receipts of skim milk in other source milk plus the overage allocated to other source milk are greater than the pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(3) Subtract from the remaining pounds of skim milk in each class, respectively, the skim milk received from other fluid milk plants and country plants and assigned to such class pursuant to § 925.44;

(4) Add to the remaining pounds of Class II milk, the amount subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in milk received from producers, subtract such excess (hereinafter referred to as "overage") from the remaining pounds of skim milk in each class beginning with Class II milk.

(c) Allocate butterfat in accordance with the procedure prescribed for skim milk in paragraph (b) of this section.

(d) Add together for each class the quantities of skim milk and butterfat in such class computed pursuant to paragraphs (b) and (c) of this section and compute the weighted average butterfat content of such class.

MINIMUM PRICES

§ 925.50 *Basic formula price to be used in determining Class I prices.* The basic formula price to be used in computing the price per hundredweight of Class I milk for the current month shall be the highest of the prices computed pursuant to paragraphs (a), (b), and (c) of this section for the preceding month.

(a) Divide by 3.5 and then multiply by 4.0 the average of the basic, or field, prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from dairy farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by the market administrator from the following formula:

(1) Multiply the simple average of the daily average wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, by 6;

(2) Add 2.4 times the simple average, as published by the Department, of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within the month;

(3) Divide by 7;

(4) Add 30 percent thereof; and

(5) Multiply by 4.

(c) The price per hundredweight computed by the market administrator from the following formula:

(1) Multiply by 4.8 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month: *Provided,* That, if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the simple average of the weighted averages of carlot prices per pounds for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 67 cents.

§ 925.51 *Class prices.* Subject to the differentials provided in § 925.52 the following are the minimum prices per hundredweight to handlers for Class I milk and Class II milk:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price plus $1.65: *Provided,* That the price for Class I milk for the months of April through June, inclusive, of any year shall not be higher than the price computed pursuant to the above provisions of this paragraph for the month of March immediately preceding, and the price for Class I milk for any October through January period, inclusive, shall not be lower than the price computed pursuant to the provisions of this paragraph for the month of September immediately preceding.

(b) *Class II milk.* The price for Class II milk shall be that computed by the market administrator from the following formula:

(1) Multiply by 4.8 the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at San Francisco, as reported by the Department during the month: *Provided,* That, if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the simple average of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 80 cents.

§ 925.52 *Butterfat differentials to handlers.* If the average butterfat content of Class I milk or Class II milk, computed pursuant to § 925.45, for any handler for any month differs from 4.0 percent, there shall be added to, or subtracted from, the applicable class price (§ 925.51) for each one-tenth of 1 percent that the average butterfat content of such class is respectively above, or below, 4.0 percent, a butterfat differential computed by the market administrator as follows:

(a) *Class I milk:* Multiply by 1.25 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at San Francisco, as reported by the Department during the preceding month, divide the result by 10, and round to the nearest tenth of a cent.

(b) *Class II milk:* Multiply by 1.15 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at San Francisco, as reported by the Department during the month, divide the

result by 10, and round to the nearest tenth of a cent.

§ 925.53 *Location adjustment to handlers on Class I milk.* In computing the value of each handler's milk there shall be credited with respect to skim milk and butterfat, respectively, in producer milk received at a plant not located in District No. 1 or in the counties of Kitsap and Mason and classified as Class I milk, 40 cents per hundredweight: *Provided,* That an additional 10 cents shall be credited with respect to skim milk and butterfat so received and classified at any plant located in Clallam or Jefferson Counties.

§ 925.54 *Location adjustment to handlers on Class II milk.* In computing each handler's value of milk there shall be added with respect to each fluid milk plant and country plant located in District No. 1 or in the counties of Kitsap and Mason, an amount of money computed as follows:

(a) Compute the sum (in pounds) of: (1) The total utilization at such plant (including any disposition of skim milk and butterfat from such plant for similar uses at nonpool plants) of skim milk and butterfat, respectively, in evaporated milk in hermetically sealed cans, butter, nonfat dry milk solids, powdered whole milk, cheddar cheese, shrinkage allowable as Class II milk pursuant to § 925.41 (b) (4) and (5), and (2) the total quantity of skim milk and butterfat transferred to other fluid milk plants and country plants located in District No. 1 or in the counties of Kitsap and Mason and allocated to the uses specified in subparagraph (1) of this paragraph (as provided in § 925.44 (a) (4) and (b) (4));

(b) Subtract such sum from the total quantity of Class II milk for such plant, including that resulting from the disposition of skim milk or butterfat from such plant to nonpool plants;

(c) Subtract from the net amounts of skim milk and butterfat, respectively, resulting from paragraph (b) of this section to the extent of such amounts, the amounts of skim milk and butterfat received at such plant from fluid milk plants and country plants not located in District No. 1 or in the counties of Kitsap and Mason and assigned to Class II milk pursuant to § 925.44 (but exclusive of the quantity by which transfers received from a transferor plant exceeds the total of receipts from producers and other handlers at such transferor plant); and

(d) Multiply by 25 cents per hundredweight the lesser of the following quantities: (i) The net amount resulting from paragraph (c) of this section, or (ii) the total amount of producer milk received at such plant directly from farms which is available for Class II milk after the assignment of transfers pursuant to § 925.44.

DETERMINATION OF BASE

§ 925.60 *Computation of producer bases.* Subject to the rules set forth in § 925.61, the market administrator shall determine bases for producers in the manner provided in paragraphs (a) and (b) of this section:

(a) During each of the months of February through July, inclusive, of each year beginning with 1954, the daily base of each producer whose milk was received by a handler(s) on not less than one hundred twenty (120) days during the immediately preceding months of August through December, inclusive, shall be a quantity computed by dividing such producer's total pounds of milk delivered in such five-month period by the number of days from the date of first delivery to the end of such five-month period, and during each of the months of March through July 1953, inclusive, the daily base of each producer whose milk was received by a handler(s) on not less than ninety (90) days during the immediately preceding months of October through January, inclusive, shall be a quantity computed by dividing such producer's total pounds of milk delivered in such four-month period by the number of days from the date of first delivery to the end of such four-month period: *Provided,* That with respect to any producer on "every-other-day" delivery the days of non-delivery intervening days of delivery shall be considered as days of delivery for the purpose of ascertaining whether delivery was made on not less than the minimum number of days required pursuant to this paragraph.

(b) Any producer who is not eligible to receive a base computed pursuant to paragraph (a) of this section, shall have beginning with March 1953 a monthly base in the months of February through July, inclusive, computed by applying the appropriate monthly percentage in the following table to his deliveries to a handler(s):

February	70	May	45
March	65	June	50
April	55	July	55

§ 925.61 *Base rules.* The following rules shall be observed in determination of bases:

(a) A base may be transferred during the period of February through July, inclusive, upon written notice to the market administrator on or before the last day of the month of transfer, but only under the following circumstances:

(1) Upon the death, retirement or entry into military service of a producer, the entire base may be transferred to a member (or members) of his immediate family who continues to supply producer milk from the same farm.

(2) If a base is held jointly and such joint holding is terminated the entire base may be transferred as a unit to one of the joint holders or to a new joint holding in which at least one of the original joint holders is a participant.

(b) A producer who ceases deliveries to a fluid milk plant or country plant for more than 45 days shall lose his base if computed pursuant to § 925.60 (a) and if he resumes deliveries to such a plant he shall be paid on a base determined pursuant to § 925.60 (b) until he can establish a new base under § 925.60 (a) to begin the next February 1.

(c) By notifying the market administrator in writing on or before the 15th day of any month in the period February through July, inclusive, a producer holding a base established pursuant to § 925.60 (a) may relinquish such base by cancellation, and effective from the first day of the month in which notice is received by the market administrator until the end of such six-month period such producer's base shall be computed in the manner provided by § 925.60 (b).

(d) As soon as bases computed by the market administrator are allotted, notice of the amount of each producer's base shall be given by the market administrator to the handler receiving such producer's milk and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promply post in a conspicuous place at each of his plants a list or lists showing the base of each producer whose milk is received at such plant.

(e) If a producer operates more than one farm he shall establish a separate base with respect to producer milk delivered from each such farm.

(f) Only producers as defined in § 925.12 may establish or earn a base pursuant to the provisions of §925.60, and only one base shall be allotted with respect to milk produced by one or more persons where the land, buildings, and equipment used are jointly owned or operated.

DETERMINATION OF UNIFORM PRICE

§ 925.70 *Computation of value of milk.* (a) Except as provided in paragraph (b) of this section, the total value of milk received during any month by each handler including a cooperative association, shall be a sum of money computed by the market administrator as follows:

(1) Multiply the pounds of producer milk in each class for such month by the class price (§ 925.51) and add together the resulting amounts;

(2) Deduct the total amount of all location adjustment credits computed in accordance with § 925.53;

(3) Add the total amount of all location adjustments computed pursuant to § 925.54;

(4) Add or subtract, as the case may be, the amount necessary to correct errors as disclosed by the verification of reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made;

(5) Add, if such handler had overage, an amount computed by multiplying the pounds of such overage (except overage prorated to other source milk) deducted from each class pursuant to § 925.45 by the applicable class price: *Provided,* That if (i) overage results in a fluid milk plant or country plant having receipts of other source milk, the total overage shall be prorated between other source milk and all other receipts, and (ii) overage results in a nonpool plant located on the same premises as a fluid milk plant or country plant, such overage shall be prorated between the quantity transferred from the fluid milk plant or country plant and other source milk in such nonpool plant, and the transferor handler shall be charged at the applicable class price for the amount of overage allocated to the transferred quantity.

(6) Add, with respect to other source milk received at each fluid milk plant and country plant of such handler in excess of the total volume of his Class II milk (except allowable shrinkage) at such plant an amount computed by multiplying the hundredweight of such other source milk by the difference between the Class I milk and Class II milk prices adjusted, respectively, by the butterfat differentials provided in § 925.52 (based on the butterfat test of such other source milk), and in the case of a fluid milk plant or country plant not located in District No. 1 or in the counties of Kitsap or Mason, such difference shall be reduced by 40 cents per hundredweight: *Provided,* That with respect to skim milk and butterfat so received and classified at any plant located in Clallam and Jefferson Counties, there shall be a further reduction of 10 cents per hundredweight.

(b) The value of milk of each handler at any plant where only other source milk was received and from which, during the month, some other source milk was disposed of within the marketing area as Class I milk pursuant to § 925.41 (a) (1) shall be a sum of money computed by the market administrator by multiplying the hundredweight of such other source milk so disposed of by the difference between the Class I milk and Class II milk prices adjusted, respectively, by the butterfat differentials provided in § 925.52 (based on the butterfat test of such other source milk), and, in the event disposition within the marketing area was only within Districts Nos. 2 and 3, such difference shall be reduced by 40 cents per hundredweight.

§ 925.71 *Computation of uniform price.* For each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 925.70 for all handlers who made the reports prescribed in § 925.30 and who made the payments pursuant to § 925.84 for the preceding month;

(b) Add the aggregate of the values of the location adjustments on base milk allowable pursuant to § 925.81 (a);

(c) Deduct the aggregate of the values of the location adjustments on excess milk computed pursuant to § 925.81 (b);

(d) Add an amount representing not less than one-half the unobligated cash balance in the producer-settlement fund;

(e) Subtract, if the average butterfat content of the milk represented by the values included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 925.82 and multiplying the resulting figure by the total hundredweight of such milk;

(f) Multiply the hundredweight of excess milk by the Class II price for 4.0 percent milk, rounded to the nearest one-tenth cent;

(g) Compute the total value of base milk by subtracting the amount computed pursuant to paragraph (f) of this section from the net amount computed pursuant to paragraph (e) of this section: *Provided,* That if such result is greater than an amount computed by multiplying the hundredweight of base milk by the Class I milk price (for 4.0 percent milk) plus 4 cents such amount in excess thereof shall be subtracted from the result obtained prior to this proviso;

(h) Divide the net amount obtained in paragraph (g) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform price per hundredweight of base milk of 4.0 percent butterfat content; and

(i) Divide the amount obtained in paragraph (f) of this section plus any amount subtracted pursuant to the proviso of paragraph (g) of this section by the hundredweight of excess milk, and subtract any fractional part of one cent. This result shall be known as the uniform price per hundredweight of excess milk of 4.0 percent butterfat content.

PAYMENTS

§ 925.80 *Time and method of payment to producers and to cooperative associations.* (a) On or before the 19th day after the end of each month, each handler, including a cooperative association which is a handler, shall make payment to each producer, for milk received at his plant from such producer during such month pursuant to subparagraphs (1) and (2) of this paragraph: *Provided,* That such payment shall be made, upon request, to a cooperative association, or to its duly authorized agent, qualified under § 925.5 with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this proviso shall be made on or before the 17th day after the end of such month: *And provided further,* That if by such date such handler has not received full payment for such month pursuant to § 925.85, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator:

(1) At not less than the uniform price for base milk for the quantity of base milk received, adjusted by the butterfat differential computed pursuant to § 925.82 and by any location adjustment applicable under § 925.81; and

(2) At not less than the uniform price for excess milk for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 925.82 and by any location adjustment applicable under § 925.81.

(b) On or before the 17th day after the end of each month each handler shall pay to each cooperative association which operates a fluid milk plant or country plant, for skim milk and butterfat received from such cooperative association during such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class (pursuant to § 925.41) by the class price adjusted by the amounts of any location adjustments applicable pursuant to §§ 925.53 and 925.54.

(c) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c (5) (F) of the act from making payment for milk to its producers in accordance with such provision of the act.

§ 925.81 *Location adjustments to producers.* In making payments to producers pursuant to § 925.80 (a) (1) the following adjustments for location are applicable:

(a) Deductions may be made per hundredweight of base milk received from producers as follows: 50 cents at plants located in Clallam and Jefferson Counties, and 40 cents at other plants not located in District No. 1 or in the counties of Kitsap and Mason.

(b) Beginning with March 1953, 25 cents per hundredweight shall be added for the months of February through July, inclusive, to the uniform price for excess milk received from producers at plants located in District No. 1, or in the counties of Kitsap and Mason.

§ 925.82 *Producer butterfat differential.* In making payments pursuant to § 925.80 (a) for base milk and for excess milk, there shall be added to, or subtracted from, the uniform prices thereof for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, a butterfat differential computed by the market administrator as follows:

(a) The butterfat differential for base milk shall be computed by multiplying the butterfat differential for Class I milk by the percentage of the butterfat contained in base milk that is allocated to Class I, and by multiplying the remaining percentage of butterfat within base milk by the butterfat differential for Class II milk, adding together the resulting amounts, and rounding to the nearest tenth of a cent.

(b) The butterfat differential for excess milk shall be the same as the butterfat differential for Class II milk.

§ 925.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to § 925.84 and out of which he shall make all payments to handlers pursuant to § 925.85.

§ 925.84 *Payments to the producer-settlement fund.* On or before the 15th day after the end of the month during

which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total value of such handler's milk as determined pursuant to § 925.70 is greater than the value of such handler's producer milk computed at the minimum uniform prices as specified in § 925.80 (a).

§ 925.85 *Payments out of the producer-settlement fund.* On or before the 17th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the total value of such handler's milk as determined pursuant to § 925.70 is less than the value of such handler's producer milk computed at the minimum uniform prices as specified in § 925.80 (a), and less any unpaid obligations of such handler to the market administrator pursuant to §§ 925.84, 925.86, 925.87 and 925.88: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 925.86 *Adjustments of accounts.* Whenever verification by the market administrator of reports or payment of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred following the 5th day after such notice.

§ 925.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 925.80 (a), shall make a deduction of 5 cents per hundredweight of milk, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association; and

(2) All milk received at a plant operated by a cooperative association from producers who are not members of such association.

Such deduction shall be paid by the handler to the market administrator on or before the 15th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling, and testing of milk received from producers and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and the taking of deduction therefore to, a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 925.80 (a) the amount per hundredweight on milk authorized by such producer and shall pay over, on or before the 15th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

§ 925.88 *Expense of administration.* As his prorata share of the expense of administration of this order, each handler shall pay to the market administrator on or before the 15th day after the end of each month 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within such month of (a) other source milk classified as Class I milk, and (b) milk received from producers, including such handler's own production.

§ 925.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last-known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administration, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claims was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 925.90 *Effective time.* The provisions of this subpart or any amendment to this subpart shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 925.91.

§ 925.91 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart whenever he finds this subpart or any provision of this subpart obstructs or does not tend to effectuate the declared policy of the act. This subpart shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 925.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 925.93 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay out-

standing obligations of the office of the market administrator and to pay necessary expense of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 925.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 925.101 *Separability of provisions.* If any provision of this subpart, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

§ 925.102 *Producers - handlers.* Sections 925.40 to 925.45, inclusive, 925.50 to 925.54, inclusive, 925.70 to 925.71, inclusive, and 925.80 to 925.89, inclusive, shall not apply to a producer-handler.

Issued at Washington, D. C., this 25th day of November 1952, to be effective on and after the 1st day of December 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52-12725; Filed, Dec. 1, 1952; 8:55 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[General Ceiling Price Regulation, Amdt. 1 to Supplementary Regulation 100, Revision 1]

GCPR, SR 100—ADJUSTMENT FOR IRON AND STEEL PRODUCTS

COPPER CLAD AND COPPER COATED STEEL PRODUCTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 1 to Supplementary Regulation 100, Revision 1 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment to Supplementary Regulation (SR) 100, Revision (Rev.) 1 to the General Ceiling Price Regulation (GCPR) provides ceiling price adjustments for copper clad and copper coated steel products such as wire, sheet and strip.

Some steel mills manufacture copper clad and copper coated steel products such as wire, sheet and strip. At present, in the absence of more specific provisions, these products fall in categories (1) and (5) of section 3 (c) of GCPR, SR 100, Rev. 1 for which a ceiling price increase of 4.7 percent is provided. This increase does not fully carry out the policy of this Agency to grant ceiling price increases to reflect the increased costs of production or acquisition of steel, copper and some other metals because the 4.7 percent increase only takes account of the increased cost of production of steel and neglects the far greater increases in the cost of acquisition of copper.

This amendment remedies the situation by providing that the 4.7 percent increase be applied not to the total ceiling price of copper clad and copper coated steel products but only to that part of it which remains after deducting from that ceiling price the value of the copper content of the product, computed on the basis of the price of domestic copper of 24.5 cents per pound, and by providing that the value of the copper content be reflected in the ceiling price of the product on the basis of an average price of 28.34 cents per pound. Thus, in effect, on the copper content of copper clad and copper coated steel products an increase of 28.34 cents minus 24.5 cents or 3.84 cents per pound is granted.

The 3.84 cents increase per pound has been arrived at as follows: The price of copper currently quoted by the Bank of Chile is the equivalent of 36.5 cents per pound delivered Connecticut Valley basis. The difference between this figure and the 24.5 cents domestic price is 12 cents. In accordance with the Directive issued by the Office of Defense Mobilization on May 21, 1952, this Agency permitted brass mills and copper wire mills to add to their ceiling prices an amount representing 80 percent of their increases in the cost of acquisition of copper. The same 80 percent applied to the 12 cents price increase per pound is 9.6 cents per pound. It is anticipated that the ratio of consumption of foreign copper to domestic refined copper used in the production of copper clad products will be 40 percent foreign copper and 60 percent domestic copper in conformity with the recent allocations by the National Production Authority. An application of the 40 percent foreign ratio to the 9.6 cents previously computed yields an average increase in the recoverable cost of 3.84 cents per pound of the total copper used.

Should considerable changes occur in the price of imported copper or in the ratio of imported to total copper used in the production of copper clad and copper coated steel products the Director of Price Stabilization will consider a revision of the adjustments provided by this amendment.

So far as practicable, the Director has given due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950, as amended, and to relevant facts of general applicability. In the judgment of the Director, the provisions of this regulation comply with all the requirements with respect to the establishment of ceiling prices set forth in the Defense Production Act of 1950, as amended.

In formulating this amendment, the Director consulted with industry representatives, including trade association representatives, to the extent practicable under existing conditions, and has given full consideration to their recommendations.

AMENDATORY PROVISIONS

Section 3 of Supplementary Regulation 100, Revision 1 to the General Ceiling Price Regulation is amended by adding to it the following paragraph (d):

(d) If you produce copper clad or copper coated steel products, such as wire, sheet or strip, your ceiling price for this product is your ceiling price established by the General Ceiling Price Regulation or a supplementary regulation to the General Ceiling Price Regulation issued on or before April 24, 1952, or an individual letter order issued prior to this regulation adjusted as follows:

(1) Multiply the amount of the copper contained in the product by $0.245 per pound.

(2) Deduct the amount calculated under (1) form the ceiling price of the product.

(3) Multiply the remainder by 104.7 percent.

(4) Multiply the copper contained in the product by $0.2834 per pound.

(5) Add together the amounts calculated under (3) and (4).

The amount of copper which you must consider in your calculations is the net copper content of your product as distinguished from its copper base alloy content.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment is effective December 6, 1952.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

DECEMBER 1, 1952.

[F. R. Doc. 52-12823; Filed, Dec. 1, 1952; 4:00 p. m.]

[General Ceiling Price Regulation, Supplementary Regulation 100, Amdt. 2 to Revision 1]

GCPR, SR 100—ADJUSTMENTS FOR IRON AND STEEL PRODUCTS

CHANGES IN METHOD OF CALCULATING CERTAIN PRICE ADJUSTMENTS; CORRECTIONS OF TYPOGRAPHICAL ERRORS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 2 to Revision 1, Supplementary Regulation 100 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment to Supplementary Regulation (SR) 100, to Revision 1 to the General Ceiling Price Regulation corrects certain typographical errors, and also permits certain producers of merchant wire products to calculate their adjustments on the basis of columnar price lists, which is their historical pricing method, rather than by using the dollar-and-cents figures heretofore provided for in the supplementary regulation.

The persons affected by the change in the method of calculating price adjustments are producers of nails, staples, woven fence, welded fence, wire netting,

fence posts, wire bale ties, barbed and twisted wire. In all these industries the prices for items that are stock products have been historically expressed by means of a schedule of prices consisting of numbered columns, each column representing an increase in price of approximately one dollar per ton converted to the increase for the customary selling unit of the item, such as a keg of nails. Prices for nonstock items and cut nail products are expressed as a specified sum per hundred pounds plus extras. Therefore, price changes in stock items, either up or down, are customarily indicated by a change in the number of the applicable column, such references thus giving the new price in dollars and cents per hundred pounds. Due to the diversity and number of items priced on the column basis, it is impracticable to express a price change in any other manner than by adjusting such prices by an increase or decrease in the number of the applicable column. Consequently, this amendment sets out the price increases permitted by SR 100, Revision 1, in terms of columns instead of dollars-and-cents for merchant wire products. It is assumed that selling prices contained in price lists in effect immediately before the issuance of SR 100, Revision 1 to the GCPR were at ceiling. The change-over from a dollar per ton basis to a columnar basis, on the whole, does not result in any marked change in the price level of merchant wire products from that previously provided under SR 100, Revision 1.

In view of the nature of this amendment, special circumstances have rendered consultation with industry representatives, including trade association representatives, impracticable and unnecessary.

AMENDATORY PROVISIONS

Supplementary Regulation 100, Revision 1 to the General Ceiling Price Regulation is amended in the following respects:

1. Section 3 (a) is amended to read as follows:

(a) If you produce any of the following carbon steel mill products, your ceiling price for this product is your ceiling price established by the General Ceiling Price Regulation (GCPR) or a supplementary regulation to the GCPR issued on or before April 24, 1952, or an individual letter order issued prior to this regulation plus the applicable amount set forth below for such products.

Where the applicable amount set forth below is expressed as a number of columns, your new ceiling price is the price in the column of your price list found by adding the applicable number of columns to the number of the column containing your present ceiling price.

Example: Your ceiling price for cement coated nails, 3d sinker type, immediately before the issuance of Revision 1, SR 100 to the GCPR, was contained in column 103 of your price list. Column No. 103 plus 9 columns equals Column No. 112. The dollars-and-cents price in Column No. 112 for cement coated nails, 3d sinker type, is $8.51. Your new ceiling price for this item is $8.51. If you customarily did not express your prices in numbered columns in a price list, your ceiling price may be increased by the same number of dollars per ton as the number of columns listed in this section.

2. The table contained in section 3 (a) is amended in the following respects:

Item (36) (vi) is amended to read:	
(vi) Tubing H–40	11.00.
Item (38) is amended to read:	
(i) Nails—wire stock items	9 columns.
(ii) Nails—wire non-stock items	9.00.
(iii) Nails—cut	9.00.
Item (39) is amended to read:	
(i) Staples—stock items	8 columns.
(ii) Staples—non-stock items	8.00.
Item (41) is amended to read:	
(41) Woven fence	9 columns.
Item (42) is amended to read:	
(42) Welded fence	14 columns.
Item (43) is amended to read:	
(43) Wire netting	14 columns.
Item (44) is amended to read:	
(44) Fence posts, commonly produced by steel mills	8 columns.
Item (45) is amended to read:	
(45) Wire bale ties—coil and loop	9 columns.
Item (46) is amended to read:	
(46) Barbed and twisted wire	8 columns.
Item (55) is amended to read:	
(55) Wire hoops	8.00.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This Amendment to Supplementary Regulation 100, Revision 1 to the General Ceiling Price Regulation is effective December 6, 1952.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

DECEMBER 1, 1952.

[F. R. Doc. 52–12824; Filed, Dec. 1, 1952; 4:00 p. m.]

[General Overriding Regulation 5, Revision 1, Amdt. 10]

GOR 5—EXEMPTIONS AND SUSPENSIONS OF CERTAIN CONSUMER DURABLE GOODS AND RELATED COMMODITIES

EXEMPTION OF COIN OPERATED AMUSEMENT MACHINES

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 10 to General Overriding Regulation 5, Revision 1, is hereby issued.

STATEMENT OF CONSIDERATIONS

In line with the policy of exempting commodities from price control when the administrative burden of maintaining controls over them is disproportionate to any benefits accruing to the stabilization program, this amendment decontrols coin operated amusement machines, such as phonographs, skill games, strength-testing devices, and others. Sales of these machines are not significant in the defense program, and they do not enter into the cost of living of the American family. These machines are not purchased by the public; they are sold to "operators," who impose a service charge for the privilege of playing the machines.

These machines have been selling generally below their ceilings, and there is little likelihood that this exemption will result in any significant increase in their price levels. In any event, price control over these machines involves difficulties, both for the sellers and for this Agency, which are disproportionate to any benefits accruing to the stabilization program. The constant introduction of new models of amusement machines, and the resulting necessity of establishing new ceiling prices, has made price control in this industry extremely burdensome, both to the sellers and to OPS. Exemption of these machines will not affect the price control program, and will enable OPS to focus its energies on more important fields.

In the formulation of this amendment there has been consultation with industry representatives, including trade association representatives, to the extent practicable, and consideration has been given to their recommendations.

AMENDATORY PROVISIONS

General Overriding Regulation 5, Revision 1, is hereby amended by adding new section 19 to Article II, to read as follows:

SEC. 19. *Amusement machines.* The following amusement machines:

(a) Coin operated amusement machines, including, but not limited to, phonographs, skill games, strength-testing devices and pin-ball games. Specifically excluded, however, are machines

which dispense merchandise of any kind, whether or not such machines are also operated for amusement.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment is effective December 1, 1952.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

DECEMBER 1, 1952.

[F. R. Doc. 52–12820; Filed, Dec. 1, 1952; 11:05 a. m.]

[General Overriding Regulation 14, Amdt. 27]

GOR 14—EXCEPTED AND SUSPENDED SERVICES, ADDITIONAL EXCEPTED SERVICES

COIN OPERATED AMUSEMENT MACHINES

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 27 to General Overriding Regulation 14 is hereby issued.

STATEMENT OF CONSIDERATIONS

This Amendment removes from price control fees and charges for operation of coin operated amusement machines such as juke boxes and other phonographs, skill games, strength-testing devices, and pinball machines.

This exemption applies only to machines operated for amusement purposes. It does not apply to charges for operation of machines which dispense any commodity, even though those machines may also be operated for amusement. For example, charges for operation of "claw machines" which may dispense articles of merchandise, are not covered. Moreover, charges for rental or maintenance of any coin operated machines are not included in this exemption action.

In the judgment of the Director, controls over the services exempted by this amendment are not required at this time in order to carry out the purposes of the Defense Production Act of 1950, as amended. Experience has shown that the administrative burden of retaining control over such service fees and charges is out of proportion to the benefits gained.

In the formulation of this amendment there was consultation with industry representatives, including trade association representatives to the extent practicable, and consideration has been given to their recommendations.

AMENDATORY PROVISIONS

General Overriding Regulation 14, as amended, is further amended by adding at the end of paragraph (a) of Section 3 a new subparagraph (114) as follows:

(114) Operation of coin operated amusement machines, including, but not limited to, phonographs, skill games, strength-testing devices and pinball games; provided, however, that this exemption shall not apply to the charges for operation of machines which dispense any commodity, whether or not such machines are also operated for amusement.

(Sec. 704, 64 Stat. 816, as amended, 50 U. S. C. App. Sup. 2154)

Effective date. This Amendment to General Overriding Regulation 14 shall become effective December 1, 1952.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

DECEMBER 1, 1952.

[F. R. Doc. 52–12822; Filed, Dec. 1, 1952; 4:00 p. m.]

[General Overriding Regulation 32, Special Order 10]

GOR 32—ADJUSTMENT OF CEILING PRICES FOR MATERIALS TO THE MINIMUM PRICES FIXED BY STATE LAWS

SO 10—SELLERS OF CIGARETTES IN PENNSYLVANIA

CEILING PRICES RAISED TO CONFORM WITH THE PENNSYLVANIA UNFAIR CIGARETTE SALES ACT

Statement of considerations. This special order raises the ceiling prices of Pennsylvania cigarette sellers above those previously established under regulations of the Office of Price Stabilization (OPS) where necessary to conform to the minimum prices required to be charged by the Pennsylvania Unfair Cigarette Sales Act. This action does not presently affect ceiling prices of Pennsylvania cigarette sellers which are at or above the minimum prices required by that Act immediately prior to the effective date of this special order. Provision is also made for the adjustment of ceiling prices of cigarette sellers subject to the Pennsylvania Unfair Cigarette Sales Act in the event of a change in the minimum prices computed pursuant to that Act and in some instances for the establishment of ceiling prices for new brands of cigarettes sold in Pennsylvania.

This special order is issued pursuant to section 5 of General Overriding Regulation (GOR) 32. That regulation was issued by the OPS to conform to the requirements of section 402 (1) of the Defense Production Act of 1950, as amended. GOR 32 sets forth certain facts which must be shown to exist in a particular State before the OPS is required by the above-noted statutory provision to raise ceiling prices to the minimum prices required by the law of that State.

It appears from the information contained in the application of the Department of Revenue of the Commonwealth of Pennsylvania that the Pennsylvania Unfair Cigarette Sales Act was in effect and enforced on June 30, 1952, and on November 6, 1952 (the date of application); that the Act has not been held invalid by any court of competent jurisdiction; and that the ceiling prices of some cigarette sellers in the Commonwealth of Pennsylvania are lower than the minimum sales prices required to be charged by that Act.

Special provisions. For the reasons set forth in the Statement of Considerations and pursuant to section 5 of GOR 32 this special order is hereby issued.

1. Ceiling prices of cigarette sellers subject to the Pennsylvania Unfair Cigarette Sales Act, hereinafter referred to as the Pennsylvania Act, which are below the minimum sales prices computed pursuant to that Act, as specified in paragraph 5 hereof, are hereby raised to those minimum sales prices.

2. If the minimum prices for brands of cigarettes sold in Pennsylvania on November 6, 1952 (the date of application by the Department of Revenue of the Commonwealth of Pennsylvania) have increased after that date pursuant to the Pennsylvania Act, such higher minimum prices shall become ceiling prices as hereinafter specified in this paragraph, upon the sending of a report by the Department of Revenue of the Commonwealth of Pennsylvania by registered mail to the Grocery Products Branch, Office of Price Stabilization, Washington 25, D. C. That report will indicate the reason for the change as well as the computations by which the new required minimum prices have been determined and will list the new prices for various brands of cigarettes. The higher minimum prices so reported shall be established as ceiling prices for the sellers affected by paragraph 1 hereof and any other seller subject to the Pennsylvania Act whose ceiling prices would, as a result of such change, be below the new required minimum prices. If the minimum prices for brands of cigarettes sold in Pennsylvania on November 6, 1952, are decreased after that date pursuant to the Pennsylvania Act, ceiling prices of the sellers affected by paragraph 1 hereof shall be established at the new required minimum prices. However, where such lower minimum prices are below the ceiling prices in effect immediately prior to the date of this special order, these ceiling prices shall be in effect after such change in the minimum prices.

3. If new brands of cigarettes are sold in Pennsylvania after November 6, 1952, the cigarette sellers subject to the Pennsylvania Act who are unable to compute ceiling prices for the new brands pursuant to section 5 of the General Ceiling Price Regulation (because their comparison brands are not priced under section 3 of the General Ceiling Price Regulation but are priced under paragraph 1 or 2 of this special order) shall take as their ceiling prices for such new brands the minimum sales prices computed for them in accordance with the Pennsylvania Act. These prices will be established as ceiling prices for such cigarette sellers upon the sending of a report by the Department of Revenue of the Commonwealth of Pennsylvania by registered mail to the Grocery Products Branch, Office of Price Stabilization, Washington 25, D. C. This report will set forth the brand names of the cigarettes and the minimum sales prices required to be charged for them in accordance with the Pennsylvania Act and

will indicate how these minimum prices were computed.

4. Nothing in this special order shall prevent a cigarette seller subject to the Pennsylvania Act whose ceiling prices would be affected by the filing of a report by the Department of Revenue of the Commonwealth of Pennsylvania as set forth in paragraph 2 or 3 hereof, from filing such report in his own behalf. The individual seller may use as his ceiling prices the minimum prices required by the Pennsylvania Act upon his mailing of such report unless and until such seller is notified by the OPS that the reported prices are disapproved or that further information is required. In the event of a request for further information, the reported minimum prices shall not be used as ceiling prices until such further information is sent by registered mail to the Grocery Products Branch, Office of Price Stabilization, Washington 25, D. C.

5. As used in this special order, the term "Pennsylvania Unfair Cigarette Sales Act" means that act as amended up to June 30, 1952 (Laws of Pennsylvania 1949, Act No. 478).

6. This special order or any provision hereof may be revoked, suspended, or amended by the Director of Price Stabilization.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This special order is effective December 1, 1952.

NOTE: The record-keeping and reporting requirements of this special order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

TIGHE E. WOODS,
Director of Price Stabilization.

DECEMBER 1, 1952.

[F. R. Doc. 52-12821; Filed, Dec. 1, 1952; 11:05 a. m.]

[General Overriding Regulation 35, Amdt. 2]

GOR 35—PASS THROUGH FOR STEEL, PIG IRON, COPPER AND ALUMINUM COST INCREASES

CORRECTION OF CERTAIN ITEMS IN APPENDIX A

Due to typographical error, Item (36) (vi) and Item (55) were incorrectly listed in Part A of Appendix A of General Overriding Regulation 35. They should read as follows:

Item (36) (vi) is corrected to read:
(vi) Tubing H-40 ..... 11.00
Item (55) is corrected to read:
(55) Wire hoops 8.00

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment is effective December 6, 1952.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

DECEMBER 1, 1952.

[F. R. Doc. 52-12825; Filed, Dec. 1, 1952; 4:00 p. m.]

[General Overriding Regulation 35, Supplementary Regulation 3]

GOR 35—PASS THROUGH FOR STEEL, PIG IRON, COPPER AND ALUMINUM COST INCREASES

SR 3—OPTIONAL METHOD OF CALCULATING CERTAIN ADJUSTMENTS BASED ON MERCHANT WIRE MILL PRICE CHANGES

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Supplementary Regulation to General Overriding Regulation 35 is hereby issued.

STATEMENT OF CONSIDERATIONS

This supplementary regulation to General Overriding Regulation (GOR) 35 gives users of certain merchant wire products listed in Appendix A of GOR 35 the option either to adjust their prices on the basis of the dollars-and-cents figures now in the Appendix or to adjust their prices on a columnar price list basis. The optional columnar price adjustment provided in this supplementary regulation conforms to the changes provided by Amendment 2 to Supplementary Regulation (SR) 100, Revision 1, to the General Ceiling Price Regulation (GCPR).

The changes in SR 100, Revision 1 to the GCPR, made by that amendment, permit certain merchant wire producers to calculate their adjustments on the basis of columnar price lists, which is their historical pricing method, rather than by using the dollars-and-cents figures previously provided.

The persons affected by the change in calculating price adjustments provided for in Amendment 2 to SR 100, Revision 1, are producers of nails, staples, woven fence, welded fence, wire netting, fence posts, wire bale ties, barbed and twisted wire. The prices for items that are stock products have been historically expressed by producers of these items by means of a schedule of prices consisting of numbered columns, each column representing an increase in price of approximately one dollar per ton converted to the increase for the customary selling unit of the item, such as a keg of nails. Prices for non-stock items and cut nail products are expressed as a specified sum per hundred pounds plus extras. Therefore, price changes in stock items, either up or down, are customarily indicated by a change in the number of the applicable column, such references thus giving the new price in dollars-and-cents per customary selling unit of the item. Due to the diversity and number of items priced on the column basis, it is impracticable for producers of those items to express a price change in any other manner than by adjusting such prices by an increase or decrease in the number of the applicable column. Consequently, this supplementary regulation sets out the price increases permitted by SR 100, Revision 1, in terms of columns instead of dollars-and-cents for merchant wire products. It is assumed that the mill selling prices contained in price lists in effect immediately before the issuance of SR 100, Revision 1 to the GCPR, were at ceiling.

The change-over from a dollar per ton basis to a columnar basis, on the whole, does not result in any marked change in the price level of merchant wire products.

Purchasers from mill suppliers and from warehouses may, in calculating their ceiling prices, use the prices found in the appropriate columns specified in section 2 of this supplementary regulation immediately and without awaiting receipt of notification from their suppliers. In the alternative, such purchasers may continue to reflect in their ceiling prices the amounts of the ceiling price increases for merchant wire products now set out in Appendix A of GOR 35. If such purchasers adopt the column prices contained in this supplementary regulation, they must notify their customers of the new increases found by using column prices, regardless of whether these raise or lower the amounts of the increases previously contained in Appendix A. If the use of the column pricing method effects no change, no notice need be given.

Customers of the sellers referred to in the previous paragraph, and all subsequent processors, must continue to use the increases of which they have already received notice until they receive a new notice from their suppliers informing them of a price change made pursuant to this supplementary regulation (or the applicable distributor's regulation). On receipt of such a notice, these persons have the option to continue using, in the adjustment of their own ceiling prices, the metal cost increase of which they have previously received notice or the new amount.

In view of the nature of this supplementary regulation, special circumstances have made consultation with all industry representatives, including trade association representatives, impracticable. However, the relief provided by this regulation has been requested by many individual manufacturers and representatives of trade associations. In the judgment of the Director of Price Stabilization, the provisions of this supplementary regulation are generally fair and equitable and comply in all respects with the applicable provisions of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Purchasers of merchant wire products from mill suppliers or warehouses.
3. Subsequent processors.
4. Applicability of provisions of General Overriding Regulation 35.

AUTHORITY: Sections 1 to 4 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 804, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This supplementary regulation permits the substitution of metal cost increases calculated on the basis of column prices for the dollars-and-cents increases previously set forth in Appendix A for the merchant wire products listed in section 2 below. It requires sellers calculating their ceiling prices on the basis of column prices to

notify their customers if the change results in a change in the seller's ceiling prices as adjusted under GOR 35 prior to this supplementary regulation. However, persons receiving such a notice may, but need not, recalculate their own ceiling prices to reflect the change in their supplier's ceiling prices.

SEC. 2. *Purchasers of merchant wire products from mill suppliers or warehouses.* (a) If you purchase any of the merchant wire products listed below from a mill supplier or warehouse, you may, but are not required to, recalculate your ceiling prices by substituting for the adjustment you calculated under GOR 35 immediately prior to the issuance of this supplementary regulation, the price contained in the column of your supplier's price list found by adding the number of columns specified below in this section to the number of the column containing your supplier's present price.

Example: You purchase cement coated nails, 3d sinker type, from X mill. Assume that the mill's ceiling price for this product was contained in Column No. 103 of its price list and that the price specified there was $8.00 before the effective date of GOR 35. Assume further that, prior to the issuance of this supplementary regulation, you adjusted your ceiling price for the product in which you use these nails under section 6 of GOR 35 to reflect an increase of $9.00 per ton, or $.45 per cwt. in the cost of this item to you. The number of columns specified below for this item is 9. Adding 9 columns to Column 103 brings you to Column 112. Assume the amount specified there is $8.51. You may recalculate your ceiling price for the product in which these nails are a manufacturing material to reflect an increase of $.51 per cwt. over your supplier's price ($8.00) before the issuance of SR 100, Rev. 1, to the GCPR instead of an increase of $.45 per cwt.

The item number contained under Part A of Appendix A of GOR 35:	*adjustment permitted Column*
Item (38)—Wire nails, wire stock items (cut and wire non-stock item adjustments remain at $9.00)	9 columns.
Item (39)—Staples—stock items (non-stock item adjustments remain at $8.00)	8 columns.
Item (41)—Woven fence	9 columns.
Item (42)—Welded fence	14 columns.
Item (43)—Wire netting	14 columns.
Item (44)—Fence posts, commonly produced by steel mills	8 columns.
Item (45)—Wire bale ties—coil and loop	9 columns.
Item (46)—Barbed and twisted wire	8 columns.

(b) If you calculate your ceiling prices in accordance with paragraph (a) of this section, and the result is a ceiling price different from that you calculated under GOR 35 before the issuance of this supplementary regulation, you must notify your customers of the increase over your unadjusted ceiling price in the manner specified in section 13 of GOR 35. If you recalculate your ceiling price in accordance with paragraph (a) of this section, and the result is the same as the ceiling price you calculated under GOR 35 before the issuance of this supplementary regulation, you need not give your customers any notice other than that you have already given them under section 13 of GOR 35.

SEC. 3. *Subsequent processors.* (a) If you purchase the merchant wire products listed in section 2 above but do not buy them from mill suppliers or warehouses, or if you purchase products in which these merchant wire products are used as a manufacturing material, and your supplier has, prior to the effective date of this regulation, notified you of an increase in his ceiling price reflecting a metal cost pass-through, in calculating your ceiling price you continue to use that increase until he notifies you of a different increase which he has calculated pursuant to this supplementary regulation (or, if your supplier is a distributor of these merchant wire products, pursuant to the applicable distributor's regulation, such as SR 29 to the GCPR). If you receive such a notice, you may, but are not required to, recalculate your ceiling prices by substituting for the adjustment which you computed under GOR 35 immediately prior to the issuance of this supplementary regulation, the new figure furnished you by your supplier.

SEC. 4. *Applicability of provisions of GOR 35.* Except to the extent expressly modified or supplemented by this regulation, all provisions of GOR 35 shall be applicable to any producer subject to this supplementary regulation.

Effective date. This supplementary regulation to General Overriding Regulation 35 is effective December 6, 1952.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

DECEMBER 1, 1952.

[F. R. Doc. 52-12826; Filed, Dec. 1, 1952; 4:01 p. m.]

[General Overriding Regulation 40]

GOR 40—ADJUSTMENTS FOR RETAILERS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this General Overriding Regulation 40 is hereby issued.

STATEMENT OF CONSIDERATIONS

On January 26, 1951, the General Ceiling Price Regulation was issued freezing the prices of most goods and services at all levels of production and distribution. At the time of its issuance, no general provision for the adjustment of individual hardship cases was included since it was virtually impossible to predict the specific types of hardship situations which an order of this scope might create.

On February 26, 1951, Ceiling Price Regulation 7 was issued. This regulation was tailored to meet the needs of pricing certain categories of merchandise at the retail level of distribution. It provided pricing rules to relieve certain inequities and squeezes which existed under the General Ceiling Price Regulation. Although it was believed that for these categories of merchandise no immediate need for a hardship provision would exist, it has become apparent since the issuance of the regulation that there are a small number of retail sellers operating under CPR 7 who, due to unusual circumstances, find themselves in a loss position as a result of markups imposed by the regulation.

On May 15, 1951, Supplementary Regulation 27 to the General Ceiling Price Regulation was issued to afford relief to those retail sellers who suffered a financial hardship as a result of introductory sales. That supplementary regulation permitted the retail sellers to increase ceiling prices to the extent necessary to bring such ceiling prices in line with "normal" prices of competitors. However, such adjustments are limited to sellers who are subject to GCPR and do not apply to sellers who operate under CPR 7.

On May 28, 1951, Supplementary Regulation 29 to the General Ceiling Price Regulation was issued. In addition to providing for changes in the retail ceiling prices to reflect suppliers' price changes pursuant to any ceiling price regulations, it provides for alleviation of certain replacement squeezes imposed by the General Ceiling Price Regulation.

The Office of Price Stabilization recognizes that even after the issuance of CPR 7 and Supplementary Regulations 27 and 29 to the General Ceiling Price Regulation, there still exists a need for a regulation that will provide relief for a limited number of sellers at retail who price under CPR 7 and GCPR and their supplements and who find themselves in an over-all loss position as a result of the ceiling prices or markups or terms and conditions of sale required by the regulations.

Following in some respects the provisions of GOR 10 (applicable to manufacturers only), the accompanying general overriding regulation is being issued. In general this regulation provides that a retailer may use this regulation if his sales of articles covered by Appendix A of CPR 161 or Appendix B of CPR 7 or of certain furs, which articles are bought and sold in substantially the same form, account for 75 percent or more of his total annual dollar volume and if his ceiling prices for such articles determined under, or terms or conditions of sale required by, CPR 7 or the GCPR or their supplements contribute to a current net operating loss in his over-all operations. It is not intended to provide adjustments for losses resulting from other factors such as seasonal, temporary or non-recurring factors, uneconomical operations, illegal wage payments and the like; nor is it intended to provide an inefficient retailer with higher ceiling prices or markups than those of his competitors; nor to permit a seller to abandon serv-

ices or terms or conditions of sale offered by his competitors.

No retailer covered by this regulation will be prevented thereby from taking advantage of any special adjustment provisions of any other regulation which may be applicable to him.

In the formulation of this regulation, there has been consultation with industry representatives, including trade association representatives, to the extent practicable and consideration has been given to their recommendations.

In the judgment of the Director of Price Stabilization, the provisions of this regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950.

REGULATORY PROVISIONS

Sec.
1. What this regulation does.
2. Who may apply under this regulation.
3. How to apply under this regulation.
4. Action on application.
5. Delegation of authority.
6. Geographical applicability.
7. Definitions.

AUTHORITY: Sections 1 to 7 issued under sec. 704, 64 Stat. 816 as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 30 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this regulation does.* This regulation permits retailers to apply for and receive an upward adjustment in their CPR 7 or GCPR ceiling prices or permission to change their terms or conditions of sale established under these regulations for certain consumer goods, if these ceiling prices or terms or conditions of sale are out-of-line with those of their closest competitors and are contributing to a current net operating loss in their over-all operation. This regulation does not, however, prevent a retailer from applying for an adjustment under any other regulation.

SEC. 2. *Who may apply under this regulation.* Any retail establishment which has sustained a net operating loss during its most recent representative period of operations of at least six months due to ceiling prices or terms and conditions of sale which are out of line with those of the competitors and which are established under CPR 7 or the GCPR may apply for relief under this regulation if 75 percent or more of its total dollar sales during that period were of "consumer goods." By "consumer goods" are meant the articles listed in the appendices to CPR 7 (Retail Ceiling Prices for Certain Consumer Goods) and CPR 161 (Consumer Durable Goods) and also fur garments, including furs, fur shells, fur linings, fur trimmings and fur collars. Only ceiling prices and terms and conditions of sale applicable to such consumer goods will be adjusted under this regulation. A "retail establishment" includes all departments within a departmentalized unit. It also includes all retail units under common ownership or control. However, any unit, or group of units, which independently prepares and executes its own merchandising plans, purchases most of the articles it offers for sale, establishes its own pricing and selling policies, engages most of its own employees and controls most of its own publicity and advertising may file under this regulation as a retail establishment.

SEC. 3. *How to apply under this regulation.* You apply under this regulation by filing an application with the Retail Branch, Consumer Goods Division, OPS, Washington 25, D. C. Your application must be signed by an owner, officer or duly authorized agent. It must include the following information for each retail unit covered by your application. However, if your records are kept in such a way that it is more convenient for you to submit any of the following information for a group of units included within the retail establishment covered by your application rather than for each retail unit individually, you may do so. (If no other period is indicated, the information should be given for the most recent completed fiscal year.):

(a) Name and address;

(b) Type of seller (e. g. men's, women's and children's wear; household furniture; or department store: single unit, chain unit, or a mail order establishment);

(c) Estimated percentage of sales made for cash, on charge or on installment;

(d) If the ceiling prices which are to be adjusted are GCPR ceiling prices, a list of the articles whose ceiling prices are to be adjusted, giving the GCPR ceiling price, and the proposed adjusted ceiling price of each;

(e) If the ceiling prices which are to be adjusted are CPR 7 ceiling prices and you wish to adjust individual cost-price lines, a list of the categories (identified by the appropriate CPR 7 Appendix B numbers) containing cost-price lines to be adjusted and a list of the cost-price lines giving the present percentage markup and the proposed percentage markup of each cost-price line;

(f) If the ceiling prices which are to be adjusted are CPR 7 ceiling prices and you wish to adjust by categories, a list of the categories (identified by the appropriate CPR 7 Appendix B numbers) for which an adjustment is requested, giving the present percentage markup and the proposed percentage markup of each;

(g) If no change is requested in ceiling prices but you wish to change your terms or conditions of sale, a statement of your existing and your proposed terms or conditions of sale;

(h) If you have filed a CPR 7 pricing chart with, or have received an authorization or order from any OPS office, an identification of such OPS office;

(i) The names and addresses of the three competitors conducting businesses most nearly like that operated by you, selling the same class of merchandise in the same general price ranges, catering to the same classes of purchasers, situated in comparable locations in the same trading area (or if none exists in the same trading area, then in a similar trading area). If a change in your terms or conditions of sale is requested, a statement of the terms or conditions of sale of these three competitors;

(j) A detailed annual profit and loss statement, itemizing the cost of goods sold and selling, administrative and general expenses for each fiscal year of operation beginning after December 31, 1948. If in the regular course of business semi-annual profit and loss statements are prepared, include these statements also;

(k) A detailed profit and loss statement, itemizing the cost of goods sold and selling, general and administrative expenses, covering the most recent period of at least six months during which you have sustained a net operating loss;

(l) A statement as to whether your records are kept pursuant to the "Retail Method of Inventory" or the "Cost Method of Inventory"; whether the inventories shown in your profit and loss statements are actual or estimated, and if estimated, what accounting method was used in arriving at the estimate; whether any change has been made during the period covered by these statements in the method of costing inventory and, if so, the date and character of such change;

(m) If an adjustment in ceiling prices is requested, the profit and loss statement for the period specified in paragraph (k) adjusted to reflect what the income during that period would have been had the ceiling prices you are proposing been in effect during that period. If a change in terms and conditions of sale is requested, the profit and loss statement for the period specified in paragraph (k) adjusted to reflect what the income during that period would have been had the terms and conditions you are proposing been in effect during that period. If an adjusted profit and loss statement for this period is unduly burdensome to compute or would not adequately present your case, you may, in lieu of that statement, submit other calculations to support your belief that the ceiling price adjustments requested will bring you no higher than the break-even point or that the proposed changes in terms or conditions of sale will bring you as close above the break-even point as it is possible to accomplish by the minimum change in your terms and conditions of sale.

(n) A statement that in your best judgment you will continue to operate at a net operating loss if you continue to sell at the ceiling prices or under the terms and conditions of sale established for consumer goods under the GCPR or CPR 7;

(o) If your application excludes any retail units under common ownership or control with units covered by the application, a statement that the retail units covered by your application do the following independently of the excluded retail units: prepare and execute their own merchandising plans; purchase most of the articles they offer or sell; establish their own pricing and selling policies; engage most of their own employees; and control most of their own publicity and advertising.

SEC. 4. *Action on application.* The Office of Price Stabilization will grant or deny, in whole or in part, an appli-

cation under this regulation, or request further information, and may, as a condition of granting an application, in whole or in part, require, subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942 the submission of reports of subsequent operations. Your application will be carefully reviewed to ascertain whether any unreasonable or excessive costs have been included and to determine whether your net operating loss is due to ceiling prices or terms or conditions of sale for consumer goods established under CPR 7 or the GCPR. No adjustment will be granted to the extent that your net operating loss is due to: seasonal, temporary or non-recurring factors affecting your operations; an abnormal reduction in volume of sales; the payment of unlawful wages or excessive salaries, or of unlawful prices for merchandise; the incurring of selling, administrative and general costs or other overhead costs which are abnormally high relative to sales or other costs unless such excess was unavoidable in the exercise of normal business judgment and management; any abnormal transactions with affiliated corporations or businesses; or abnormal reserves for contingencies, or any other unusual accounting factors. Any adjustment granted under this regulation may be revoked or modified at any time. No adjustment will be granted under this regulation which will give you ceiling prices or terms and conditions of sale which are out-of-line with the ceiling prices or terms and conditions of sale established for your closest competitors. No adjustment will be granted under this regulation which will bring you above a break-even position. However, a change in terms and conditions of sale will be authorized which will bring you above the break-even point if such change is the minimum which must be made in order to bring you up to that point.

SEC. 5. *Delegation of authority.* The National Office of the Office of Price Stabilization may refer any application for adjustment filed pursuant to this regulation to the appropriate Regional Director. Any Regional Director, or any District Director authorized by the appropriate Regional Director, may in cases properly referred to him take action in accordance with sections 3 and 4 of this regulation.

SEC. 6. *Geographical applicability.* This regulation applies in the 48 states and the District of Columbia.

SEC. 7. *Definitions.* Unless a different meaning is given below or the context otherwise requires all terms used herein have the same meaning as in the regulation otherwise applicable to you.

(a) *CPR 7.* This term includes Ceiling Price Regulation 7, Retail Ceiling Prices for Certain Consumer Goods, as amended, and all supplements thereto.

(b) *GCPR.* This term includes the General Ceiling Price Regulation, as amended, and all supplements thereto.

(c) *Net operating loss.* This term means that amount by which the cost of merchandise and services plus total operating expenses exceeds net sales. Net sales are total gross sales minus returns and allowances to customers.

(d) *Retailer or retail establishment.* A retailer or retail establishment is a seller who in the regular course of business makes sales at retail. A sale at retail means a sale to an ultimate consumer, other than an industrial or commercial user, of an article bought and sold in substantially the same form.

Effective date. This general overriding regulation is effective December 6, 1952.

NOTE: The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

EDWARD F. PHELPS, Jr.,
Acting Director of Price Stabilization.

DECEMBER 1, 1952.

[F. R. Doc. 52-12827; Filed, Dec. 1, 1952; 4:01 p. m.]

Chapter VI—National Production Authority, Department of Commerce

[Revised CMP Regulation No. 6, Direction 9]

CMP REG. 6—CONSTRUCTION

DIR. 9—AUTOMATIC REVALIDATION OF CERTAIN ALLOTMENTS AND ORDERS

This direction to Revised CMP Regulation No. 6 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, there has been consultation with industry representatives and consideration has been given to their recommendations. However, consultation with representatives of all industries affected by this direction has been rendered impracticable because the direction affects many different industries.

Sec.
1. What this direction does.
2. Automatic revalidation of certain allotments and orders.
3. Return of unused revalidated allotments.

AUTHORITY: Sections 1 to 3 issued under sec. 704, 64 Stat. 816; Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp.; secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR, 1951 Supp.

SECTION 1. *What this direction does.* This direction provides for the automatic revalidation of allotments issued pursuant to the provisions of section 8 of Revised CMP Regulation No. 6 and permits placement of authorized controlled material orders calling for deliveries of controlled materials in the calendar quarter next succeeding the quarter for which the allotment is made.

SEC. 2. *Automatic revalidation of certain allotments and orders.* (a) Notwithstanding any provisions of Revised CMP Regulation No. 6, any person who has received an allotment, pursuant to the provisions of section 8 of Revised CMP Regulation No. 6, may himself revalidate such allotment; and he may place authorized controlled material orders calling for delivery in the quarter next succeeding the quarter for which the allotment is made, without making any application to the claimant agency which issued the allotment or to NPA for authority to take such action.

(b) (1) To revalidate an allotment pursuant hereto, the purchaser need only indicate on his purchase order that he desires delivery in the calendar quarter next succeeding the quarter provided for in the allotment. (For example, if he has received an allotment valid for the fourth calendar quarter of 1952, and if he desires, for any reason, to receive delivery in the first quarter of 1953 instead of in the fourth quarter of 1952, in placing his purchase order, the purchaser shall identify such order by the allotment number and the designation of the appropriate calendar quarter in which he desires delivery, i. e., in the instance of this example 1Q53.)

(2) If a purchase order has already been placed pursuant to an allotment valid in any particular calendar quarter and if the purchaser desires, for any reason, to receive delivery in the calendar quarter next succeeding the quarter for which the allotment is valid, he may revalidate such allotment and purchase order, and request delivery in the next succeeding quarter, either by furnishing a revised copy of the purchase order to the supplier, or by furnishing the supplier written information clearly identifying the original purchase order and specifying the quarter in which delivery is requested.

(3) All purchase orders placed pursuant to this direction shall be certified in the manner described in section 12 of Revised CMP Regulation No. 6.

(c) This direction does not apply to allotments bearing the program identifications A, B, C, or E.

SEC. 3. *Return of unused revalidated allotments.* As of the end of the quarter for which the allotment was revalidated, any person whose allotment has been revalidated must determine whether he has used his entire allotment by placing authorized controlled material orders or making allotments to his contractors or to persons who are to produce Class A products for him for the construction project, and if he has any excess, he must return it by the tenth day of the month after the close of that quarter.

This direction shall take effect December 1, 1952.

NATIONAL PRODUCTION AUTHORITY,
By GEORGE W. AUXIER,
Executive Secretary.

[F. R. Doc. 52-12829; Filed, Dec. 1, 1952; 11:20 a. m.]

[Revised CMP Regulation No. 6, Amendment 1 of November 28, 1952]

REVISED CMP REG. 6—CONSTRUCTION

AMENDMENT OF TABLE III

This amendment to Revised CMP Regulation No. 6 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this amendment, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the amendment affects many different industries.

This amendment affects Table III of Revised CMP Regulation No. 6 as amended October 3, 1952, and conforms that table to the revised listing of controlled materials which is set forth in CMP Regulation No. 1 as amended November 18, 1952.

Table III of Revised CMP Regulation No. 6 is amended to read as follows:

TABLE III TO REVISED CMP REGULATION NO. 6—CONTROLLED MATERIALS

["Controlled material" means domestic and imported steel, copper, and aluminum, in the forms and shapes indicated in this schedule, whether new, remelted, rerolled, or redrawn, including used and second-quality materials, shearings, and material sorted or salvaged from scrap which are sold for other than remelting, rerolling, or redrawing purposes.]

CARBON STEEL (INCLUDING WROUGHT IRON)[1]

(a) Bar, bar shapes.
Includes:
Bar, hot-rolled, stock for projectile and shell bodies.[2]
Bar, hot-rolled, other (including light shapes).
Bar, reinforcing (straight lengths—as rolled).
Bar, cold-finished.

(b) Sheet, strip (uncoated and coated).
Includes:
Sheet, hot-rolled.
Sheet, cold-rolled.
Sheet, galvanized.
Sheet, all other coated.
Sheet, enameling.
Roofing, galvanized, corrugated, V-crimped channel drains.
Ridge roll, valley, and flashing.
Siding, corrugated and brick.
Strip, hot-rolled.
Strip, cold-rolled.
Strip, galvanized.
Electrical sheet and strip.
Tin mill black plate.
Tin plate, hot-dipped.
Ternes, special coated manufacturing.
Tin plate, electrolytic.

(c) Plate.[3]

(d) Structural shapes,[4] piling.

(e) Pipe, tubing.[5]
Includes:
Standard pipe (including type of couplings furnished by mill).[6]
Oil country goods (casings, tubular goods, type of couplings furnished by mill).
Line pipe (including type of couplings furnished by mill).
Pressure tubing—seamless and welded.
Mechanical tubing—seamless and welded.

(f) Wire, wire products.
Includes:
Wire—drawn.
Nails—bright steel wire, steel cut, galvanized, cement-coated, and painted.
Spikes and brads—steel wire, galvanized, and cement-coated.
Staples, bright and galvanized (farm and poultry).
Wire rope and strand.
Welded wire mesh and woven wire netting.
Barbed and twisted wire.
Wire fence, woven and welded (farm and poultry).
Bale ties.
Coiled automatic baler wire.

(g) Tool steel (including die blocks and tool steel forgings).

(h) Other mill forms and products (not including forgings except for wheels).
Includes:
Ingots.
Billets, shell quality for body stock only.[7]
Billets, shell quality for component parts and rockets.

(h) Other mill forms and products (not including forgings except for wheels)—Con.
Includes—Continued
Blooms, slabs, other billets, tube rounds, sheet bars.
Skelp.
Wire rod.
Rails.
Joint bars (track).
Tie plates (track).
Track spikes.
Wheels, rolled or forged (railroad).
Axles (railroad).

(i) Castings (not including cast iron).

ALLOY STEEL[8] (EXCEPT STAINLESS STEEL)

(a) Bar, bar shapes.
Includes:
Bar, hot-rolled projectile and shell quality.
Bar, hot-rolled, other (including light shapes).
Bar, cold-finished.

(b) Sheet, strip.
Includes:
Sheet, hot-rolled.
Sheet, cold-rolled.
Sheet, galvanized.
Strip, hot-rolled.
Strip, cold-rolled.

(c) Plate.[9]
Includes:
Rolled armor.
Other.

(d) Structural shapes.[4]

(e) Pipe, tubing.[5]
Includes:
Oil-country goods.
Pressure tubing—seamless and welded.
Mechanical tubing—seamless and welded.

(f) Wire.

(g) Tool steel (including die blocks and tool steel forgings).

(h) Other mill forms and products (not including forgings except for wheels).
Includes:
Ingots.
Billets, projectile and shell quality.
Blooms, slabs, other billets, tube rounds, sheet bars.
Wire rods.
Rails.
Wheels, rolled or forged (railroad).
Axles (railroad).

(i) Castings.

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[1] For the purpose of this schedule "carbon steel (including wrought iron)" means any steel customarily so classified and also includes: (1) All grades of electrical sheets and strip; (2) low-alloy, high-strength steels; and (3) clad and coated carbon steels not included with alloy steels; e. g., galvanized, tin, terne, copper (excluding copper wire mill products) or aluminum clad and/or coated carbon steels. "Low-alloy, high-strength steels" means only the proprietary grades promoted and sold for this purpose.

[2] Includes projectile body stock, sizes under 2⅞ inches and component parts, all sizes.

[3] Carbon plates not only include the following minimum size specifications, but also floor plates of any thickness:

0.180 inch or thicker, over 48 inches wide.
0.230 inch or thicker, over 6 inches wide.
7.53 pounds per square foot or heavier, over 48 inches wide.
9.62 pounds per square foot or heavier, over 6 inches wide.

[4] "Structural shapes" means rolled flanged sections having at least one dimension of their cross section 3 inches or greater, commonly referred to as angles, channels, beams, and wide flange sections.

[5] For operations relating to allotments and deliveries of controlled materials beginning with the first calendar quarter of 1953, steel pipe or tubing exceeding 36 inches O. D. is not a controlled material, but is a Class A product.

[6] Standard pipe includes the following:

Ammonia pipe.
Bedstead tubing.
Driven well pipe.
Drive pipe.
Dry kiln pipe.
Dry pipe for locomotives.
English gas and steam pipe.
Furniture pipe.
Ice machine pipe.
Mechanical service pipe.
Nipple pipe.
Pipe for piling.
Pipe for plating and enameling.
Pump pipe.
Signal pipe.
Standard pipe coupling.
Structural pipe.
Turbine pump pipe.
Water main pipe.
Water well casing.
Water well reamed and drifted pipe.

[7] Includes only projectile body stock, sizes 2⅞ inches and larger, rounds, and round-cornered squares.

[8] For purposes of this schedule "alloy steel" means steel containing 50 percent or more of iron or steel and any one or more of the following elements in the following amounts: Manganese, maximum of range in excess of 1.65 percent; silicon, maximum of range in excess of 0.60 percent (excepting electrical sheets and strip); copper, maximum of range in excess of 0.60 percent; aluminum, boron, chromium, cobalt, columbium, molybdenum, nickel, tantalum, titanium, tungsten, vanadium, zirconium, or any other alloying elements in any amount specified or known to have been added to obtain a desired alloying effect. Clad steels which have an alloy steel base or carbon steel for which nickel and/or chromium is contained in the coating or cladding material (e. g., inconel, monel, or stainless) are alloy steels.

[9] Alloy steel plates include the following size specifications:

0.180 inch or thicker, over 48 inches wide.
0.230 inch or thicker, over 12 inches wide.
7.53 pounds per square foot or heavier, over 48 inches wide.
9.62 pounds per square foot or heavier, over 12 inches wide.

STAINLESS STEEL [10]
(a) Seamless tubing.[5]
(b) Other mill forms and products (not including forgings).
Includes:
Bar, bar shapes (including light shapes).
Includes:
Bar, hot-rolled (including light shapes).
Bar, cold-finished.
Sheet, strip.
Includes:
Sheet, hot-rolled.
Sheet, cold-rolled.
Strip, hot-rolled.
Strip, cold-rolled.
(b) Other mill forms and products (not including forgings)—Continued.
Includes:—Continued.
Plate.[11]
Structural shapes.[4]
Tubing (except seamless).[5]
Wire, wire products.
Includes:
Wire, drawn.
Wire rope and strand.
Welded wire mesh and woven wire netting.
Ingots, blooms, billets, tube rounds, sheet bars, wire rods.
(c) Castings.[12]

COPPER AND COPPER-BASE ALLOY BRASS MILL PRODUCTS [13]

Copper (unalloyed):
(a) Bar, rod, shapes, wire (except electrical wire).
(b) Sheet, strip, plate, rolls.
(c) Pipe, tubing (seamless).
Copper-base alloy: [14]
(d) Bar, rod, wire, shapes.
(e) Sheet, strip, plate rolls, military ammunition cups and discs.
(f) Pipe, tubing (seamless).

COPPER WIRE MILL PRODUCTS

All copper wire and cable for electrical conduction including but not limited to:
Bare and tinned.
Weatherproof.
Magnet wire.
Insulated building wire.
Paper and lead power cable.
Paper and lead telephone cable.
Asbestos cable.
Portable and flexible cord and cable.
Communication wire and cable.
Shipboard cable.

All copper wire and cable for electrical conduction including but not limited to—Continued.
Automotive and aircraft wire and cable.
Insulated power cable.
Signal and control cable.
Coaxial cable.
Copper-clad steel wire containing over 20 percent copper by weight regardless of end use.

COPPER AND COPPER-BASE ALLOY FOUNDRY PRODUCTS AND POWDER

Includes:
Copper, brass, and bronze castings.[15]
Copper, brass, and bronze powder.

ALUMINUM [16]

Rolled bar, rod, wire (including drawn wire), structural shapes.
Aluminum cable steel reinforced (ACSR) and bare aluminum cable.
Insulated or covered wire or cable.
Extruded bar, rod, shapes, tubing (including drawn or welded tubing).
Sheet, strip, plate.
Pig or ingot, granular or shot.

(Sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This amendment shall take effect November 28, 1952.

NATIONAL PRODUCTION AUTHORITY,
By GEORGE W. AUXIER,
Executive Secretary.

[F. R. Doc. 52-12793; Filed, Nov. 28, 1952; 2:49 p. m.]

[NPA Order M-6A, Schedule 4 of December 1, 1952]

M-6A—STEEL DISTRIBUTORS

SCHED. 4—SEMI-FINISHED STEEL PRODUCTS

This schedule to NPA Order M-6A is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this schedule, consultation with industry representatives has been rendered impracticable due to the need for immediate action. This schedule is issued under NPA Order M-6A and is made a part of that order.

Sec.
1. What this schedule does.
2. Definitions.
3. Distributors' deliveries.
4. Canadian distributor deliveries.
5. Communications.

AUTHORITY: Sections 1 to 5 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp.; secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR, 1951 Supp.

SECTION 1. *What this schedule does.* This schedule prohibits delivery of the semi-finished steel products mentioned in section 3 of this schedule by steel distributors except pursuant to authorized controlled material orders.

SEC. 2. *Definitions.* All definitions contained in NPA Order M-6A are applicable to this schedule.

SEC. 3. *Distributors' deliveries.* No steel distributor (except steel distributors located in the Dominion of Canada) shall make delivery of, nor shall any person accept delivery from any steel distributor of, any carbon or alloy ingots, billets, blooms, slabs, sheet bars, tube rounds, skelp, wire rods, or hot-rolled sheets in coils, unless such delivery is made pursuant to an authorized controlled material order.

SEC. 4. *Canadian distributor deliveries.* Deliveries of carbon or alloy ingots, billets, blooms, slabs, sheet bars, tube rounds, skelp, wire rods, or hot-rolled sheets in coils will be made by Canadian steel distributors pursuant to instructions issued by the Canadian Government through its Department of Defense Production.

SEC. 5. *Communications.* All communications concerning this schedule shall be addressed to the National Production Authority, Washington 25, D. C., Ref: NPA Order M-6A, Schedule 4.

This schedule shall take effect December 1, 1952.

NATIONAL PRODUCTION AUTHORITY,
By GEORGE W. AUXIER,
Executive Secretary.

[F. R. Doc. 52-12831; Filed, Dec. 1, 1952; 11:29 a. m.]

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent Office, Department of Commerce

Subchapter A—Patents

PART 1—RULES OF PRACTICE IN PATENT CASES

Subchapter B—Trade-Marks

PART 100—RULES OF PRACTICE IN TRADE-MARK CASES

MISCELLANEOUS AMENDMENTS

The following amendments are made, to take effect on January 1, 1953, except as follows:

The addition to § 1.55 made by amendment number 12, relating to the time for filing claims of priority and certified copies of foreign applications, shall not

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[4] See footnote 4, page 10863.
[5] See footnote 5, page 10863.
[10] "Stainless steel" means heat- and corrosion-resisting steel containing 50 percent or more of iron or steel and 10 percent or more of chromium whether with or without nickel, molybdenum, or other elements. However, stainless steel containing less than 1 percent nickel is not a controlled material, nor is it a Class A or a Class B product.
[11] Stainless steel plates include the following size specifications: 3/16 inch (0.1875) or thicker, over 10 inches wide.
[12] "Stainless steel castings" means any steel casting which is heat- corrosion- or abrasion-resistant, containing 50 percent or more of iron and 8 percent or more of chromium with or without nickel, molybdenum, or other alloying elements.
[13] Includes anodes—rolled, forged, or sheared from cathodes.
[14] "Copper-base alloy" means any alloy in the composition of which the percentage of copper metal equals or exceeds 40 percent by weight of the metallic content of the alloy. It does not include alloyed gold produced in accordance with U. S. Commercial Standard CS 67-38.
[15] Cast copper and copper-base alloy shapes or forms suitable for ultimate use without remelting, rolling, drawing, extruding, or forging. (The process of casting includes the removal of gates, risers, and sprues, and sandblasting, tumbling, and dipping, but does not include any further machining or processing. For centrifugal castings the process includes the removal of the rough cut in the inner and/or outer diameter before delivery to a customer.) Castings include anodes cast in a foundry or by an ingot maker.
[16] Aluminum foil and aluminum powder (atomized or flake, including paste) are not controlled materials or Class A or Class B products.

apply in the case of United States applications pending on January 1, 1953, in which the notice of allowance (§ 1.311) has been sent prior to such date, and with respect to such applications the specified papers may be filed at any time prior to the granting of the patent.

The time specified in amendments number 71, 72, and 87 for filing civil actions to review decisions of the Patent Office in patent and trade-mark cases shall not apply in the case of decisions rendered prior to January 1, 1953, and with respect to such decisions the time for filing a civil action is six months from the date of the decision.

1. Section 1.6 is amended to read as follows:

§ 1.6 *Receipt of letters and papers.* (a) Letters and other papers received in the Patent Office are stamped with the date of receipt. No papers are received in the Patent Office on Saturdays, Sundays or holidays within the District of Columbia.

(b) Mail placed in the Patent Office pouch up to midnight on weekdays, excepting Saturdays and holidays, by the post office at Washington, D. C., serving the Patent Office, is considered as having been received in the Patent Office on the day it was so placed in the pouch.

(c) In addition to being mailed or delivered by hand during office hours, letters and other papers may be deposited up to midnight in a box provided at the guard's desk at the Fourteenth and E Street entrance of the Patent Office on weekdays except Saturdays and holidays, and all papers deposited therein are considered as received in the Patent Office on the day of deposit.

2. Section 1.7 is amended by inserting "Saturday," before "Sunday" in the headnote and by changing the second sentence to read as follows: "When the day, or the last day, fixed by statute or by or under this part for taking any action or paying any fee falls on Saturday, Sunday, or on a holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding day which is not a Saturday, Sunday, or a holiday."

3. Section 1.13 is amended by cancelling the phrase "a chief of division, duly designated" and substituting "an officer of the Patent Office authorized".

4. Section 1.21 is amended as follows:

a. The following line is added to Item 4:

For each claim which is in excess of twenty as well as in excess of the number of claims in the original patent	1.00

b. In Item 7, "15.00" is changed to "25.00".

c. Item 8 is changed to read as follows:

8. On filing each disclaimer or dedication under 35 U. S. C. 253	10.00

d. In Item 9, ".50" is changed to "1.00".

e. In item 11, ".20" is changed to ".30".

f. In item 12, ".20" is changed to ".30".

g. In item 14, ".50" is changed to "1.00", both occurrences.

h. New Item 31 reading as follows is added:

31. For certificate of correction of applicant's mistake	10.00

5. Section 1.41 is amended to read as follows:

§ 1.41 *Applicant for patent.* (a) A patent must be applied for and the application papers must be signed and the necessary oath executed by the actual inventor in all cases, except as provided by §§ 1.42, 1.43, and 1.47. (See § 1.147.)

(b) Unless the contrary is indicated, the word "applicant" when used in these sections refers to the inventor, joint inventors who have applied for a patent, or to the person mentioned in §§ 1.42, 1.43, or 1.47 who has applied for a patent in place of the inventor.

6. Section 1.42 is amended to read as follows:

§ 1.42 *When the inventor is dead.* In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may sign the application papers and make the necessary oath, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of his application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention by him.

7. Section 1.43 is amended to read as follows:

§ 1.43 *When the inventor is insane or legally incapacitated.* In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may sign the application papers and make the necessary oath, and apply for and obtain the patent.

8. Section 1.44 is amended to read as follows:

§ 1.44 *Proof of authority.* In the cases mentioned in §§ 1.42 and 1.43, proof of the power or authority of the legal representative must be recorded in the Patent Office or filed in the application before the grant of a patent.

9. Section 1.45 is amended to read as follows:

§ 1.45 *Joint inventors.* (a) Joint inventors must apply for a patent jointly and each must sign the application papers and make the required oath; neither of them alone, nor less than the entire number, can apply for a patent for an invention invented by them jointly, except as provided in § 1.47.

(b) If an application for patent has been made through error and without any deceptive intention by two or more persons as joint inventors when they were not in fact joint inventors, the application may be amended to remove the names of those not inventors upon filing a statement of the facts verified by all of the original applicants, and an oath as required by § 1.65 by the applicant who is the actual inventor, provided the amendment is diligently made.

(c) If an application for patent has been made through error and without any deceptive intention by less than all the actual joint inventors, the application may be amended to include all the joint inventors upon filing a statement of the facts verified by, and an oath as required by § 1.65 executed by, all the actual joint inventors, provided the amendment is diligently made.

10. Section 1.46 is amended by changing the first sentence to read as follows: "In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made by the inventor or one of the persons mentioned in §§ 1.42, 1.43, or 1.47."

11. Section 1.47 is amended to read as follows:

§ 1.47 *Filing by other than inventor.* (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself and the omitted inventor. Such application must be accompanied by proof of the pertinent facts and must state the last known address of the omitted inventor. The Patent Office shall forward notice of the filing of the application to the omitted inventor at said address. Should such notice be returned to the Office undelivered, or should the address of the omitted inventor be unknown, notice of the filing of the application shall be published in the Official Gazette. The omitted inventor may subsequently join in the application on filing an oath of the character required by § 1.65. A patent may be granted to the inventor making the application, upon a showing satisfactory to the Commissioner, subject to the same rights which the omitted inventor would have had if he had been joined.

(b) Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for the inventor. Such application must be accompanied by proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, and must state the last known address of the inventor. The assignment, written agreement to assign or other evidence of proprietary interest, or a verified copy thereof, must be filed in the Patent Office at the time of filing the application. The Office shall forward notice of the filing of the application to the inventor at the address stated in the application. Should such notice be returned to the Office undelivered, or should the address of the inventor be unknown, notice of the filing of the application shall be published in the Official Gazette. The inventor may subsequently join in the application on filing an oath of the character required by § 1.65. A patent may be granted to the inventor upon a showing satisfactory to the Commissioner.

12. Section 1.55 is amended by designating the present paragraph as paragraph (a) and by adding a new paragraph (b) to read as follows:

(b) An applicant may claim the benefit of the filing date of a prior foreign application under the conditions specified in 35 U. S. C. 119. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath as required by § 1.65. The claim for priority and the certified copy of the foreign application specified in the second paragraph of 35 U. S. C. 119 must be filed in the case of interference when specified in §§ 1.216 and 1.224; when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner; and in all other cases they must be filed not later than the date the final fee is paid. If the papers filed are not in the English language, a translation need not be filed except in the three particular instances specified in the preceding sentence, in which event a sworn translation or a translation certified as accurate by a sworn or official translator must be filed.

13. Section 1.57 is amended by changing the headnote to read *"Signature"*, and by substituting the following for the first sentence: "The application must be signed by the applicant in person. The signature to the oath will be accepted as the signature to the application provided the oath is attached to and refers to the petition, specification and claim to which it applies."

14. Section 1.58 is cancelled.

15. Section 1.61 is amended by cancelling paragraph (c) and by changing paragraph (a) to read as follows:

§ 1.61 *Petition.* (a) The petition must be addressed to the Commissioner of Patents and request the grant of a patent. The residence, and post office address of the petitioner must appear in the petition if not stated elsewhere in the application. The petition need not be separately signed when part of and attached to the specification and oath, otherwise it must be signed by the petitioner.

16. Section 1.65 is amended by cancelling paragraph (d) and changing paragraphs (a) and (b) to read as follows:

§ 1.65 *Oath of applicant.* (a) The applicant, if the inventor, must make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the process, machine, manufacture, composition of matter, or improvement thereof, for which he solicits a patent; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, and shall state of what country he is a citizen and where he resides, and whether he is a sole or joint inventor of the invention claimed in his application. In every original application the applicant must distinctly state under oath that to the best of his knowledge and belief the invention has not been in public use or on sale in the United States for more than one year prior to his application, or patented or described in any printed publication in any country before his invention or more than one year prior to his application, or patented in any foreign country prior to the date of his application on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in this country. The oath shall state whether or not any application for patent on the same invention has been filed in any foreign country, either by the applicant or by his legal representatives or assigns, or with the knowledge and consent of the applicant. If any such application has been filed, the applicant shall name the country in which the earliest such application was filed, and shall give the day, month, and year of its filing; he shall also identify by country and by day, month, and year of filing, every such foreign application filed more than twelve months before the filing of the application in this country. This oath must be subscribed to by the affiant. See § 1.153 for oath in design cases and § 1.162 for oath in plant patent applications.

(b) If the application is made as provided in §§ 1.42, 1.43, or 1.47, the oath shall state the relationship of the affiant to the inventor and, upon information and belief, the facts which the inventor is required by this section to make oath to.

17. Section 1.66 is amended by changing the first sentence in paragraph (a) to read as follows: "The oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any officer having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, the oath being attested in all cases in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made. Such oath or affirmation shall be valid as to execution if it complies with the laws of the State or country where made."

18. Section 1.67 is amended by inserting "prior to the date of his application in this country" after "foreign country" in paragraph (a) and by changing paragraph (b) to read as follows:

§ 1.67 *Supplemental oath for matter not originally claimed.* * * *

(b) In proper cases the oath here required may be made on information and belief by an applicant other than inventor.

19. Section 1.71 is amended by changing "devised" to "contemplated" in paragraph (b) and by changing paragraph (a) to read as follows:

§ 1.71 *Detailed description and specification of the invention.* (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

20. Section 1.72 is amended by changing the period at the end to a comma and adding: "If it does not otherwise appear at the beginning of the application."

21. Section 1.75 is amended by cancelling "part, improvement, or combination" in paragraph (a) and substituting "subject matter".

22. Section 1.76 is amended to read as follows:

§ 1.76 *Signature to the specification.* The specification need not be signed when followed by the oath and constituting part of the original application papers, otherwise it must be signed by the applicant in person. (See § 1.57.)

23. Section 1.77 is amended by adding to item (f) "(See § 1.76)".

24. Section 1.78 is amended by cancelling the second sentence of paragraph (a) and changing the first sentence to read: "When an applicant files an application claiming an invention disclosed in a prior filed copending application of the same applicant, the second application must contain or be amended to contain a reference in the specification to the prior application, identifying it by serial number and filing date and indicating the relationship of the applications, if the benefit of the filing date of the prior application is claimed; if no such reference is made the prior application must be referred to in a separate paper filed in the later application."

25. Section 1.79 is amended by changing the period at the end to a comma and adding: "but an application disclosing unclaimed subject matter may contain a reference to a later filed application of the same applicant or owned by a common assignee disclosing and claiming that subject matter."

26. Section 1.82 is changed to read as follows:

§ 1.82 *Signature to drawing.* Signatures are not required on the drawing if it accompanies and is referred to in the other papers of the application, otherwise the drawing must be signed. The drawing may be signed by the applicant in person or have the name of the applicant placed thereon followed by the signature of the attorney or agent as such.

27. Section 1.84 is amended by cancelling "and signatures" in paragraph (b), canceling "in pencil" in paragraph (l) and changing paragraph (h) to read as follows:

§ 1.84 *Standards for drawings.* * * *

(h) *Location of signature and names.* The signature of the applicant, or the name of the applicant and signature of the attorney or agent, may be placed in the lower right-hand corner of each sheet within the marginal line, or may be placed below the lower marginal line.

28. Section 1.93 is amended to read as follows:

§ 1.93 *Specimens.* When the invention relates to a composition of matter, the applicant may be required to furnish specimens of the composition, or of its

ingredients or intermediates, for the purpose of inspection or experiment.

29. Section 1.102 is amended by changing the semicolon in paragraph (b) to a period and cancelling the rest of the paragraph.

30. The centerhead preceding § 1.141 is amended by changing the word "Division" to "Restriction".

31. Section 1.141 is amended by cancelling from the beginning of the section up to and including the phrase "and (b)" and substituting: "Two or more independent and distinct inventions may not be claimed in one application, except that".

32. Section 1.142 is amended by changing the headnote and paragraph (a) to read as follows:

§ 1.142 *Requirement for restriction.* (a) If two or more independent and distinct inventions are claimed in a single application, the Examiner in his action shall require the applicant in his response to that action to elect that invention to which his claim shall be restricted, this official action being called a requirement for restriction (also known as a requirement for division). If the distinctness and independence of the inventions be clear, such requirement will be made before any action on the merits; however, it may be made at any time before final action in the case, at the discretion of the Examiner.

33. Section 1.143 is amended to read as follows:

§ 1.143 *Reconsideration of requirement.* If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111.) In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the Examiner will at the same time act on the claims to the invention elected.

34. Section 1.144 is amended to read as follows:

§ 1.144 *Petition from requirement for restriction.* After a final requirement for restriction, the applicant, in addition to making any response due on the remainder of the action, may petition the Commissioner to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested. (See § 1.181.)

35. Section 1.145 is amended to read as follows:

§ 1.145 *Subsequent presentation of claims for different invention.* If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144.

36. Section 1.147 is amended by changing "division" to "restriction" in the first sentence.

37. Section 1.153 is amended by changing the headnote to read: *"Title, description and claim, oath."*, redesignating the present paragraph as paragraph (a) and by adding the following paragraph (b):

(b) The oath required of the applicant must comply with § 1.65 except that the period of twelve months specified therein with respect to foreign applications is six months in the case of designs.

38. Section 1.154 is amended by changing the cross-reference at the end to "(See § 1.57)".

39. Section 1.162 is amended by changing the parenthetical expression to "(or as provided in §§ 1.42, 1.43, and 1.47)".

40. Section 1.164 is amended by changing "neither required nor" in the last sentence to "not".

41. Section 1.172 is amended by changing paragraph (a) to read:

§ 1.172 *Specification.* (a) Reissue applications must be signed and sworn to by the inventors except as otherwise provided (See §§ 1.42, 1.43, 1.47), and must be accompanied by the written assent of all assignees, if any, owning an undivided interest in the patent, but a reissue application may be made and sworn to by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent.

42. Section 1.175 is amended by cancelling paragraph (f) and by changing paragraphs (b), (c), (d), and (e) to read:

§ 1.175 *Reissue oath.* * * *

(b) When it is claimed that such patent is so inoperative or invalid "by reason of a defective specification or drawing," particularly specifying such defects.

(c) When it is claimed that such patent is inoperative or invalid "by reason of the patentee claiming more or less than he had a right to claim in the patent," distinctly specifying the excess or insufficiency in the claims.

(d) Particularly specifying the errors relied upon, and how they arose or occurred.

(e) That said errors arose "without any deceptive intention" on the part of the applicant.

43. Section 1.191 is amended by cancelling "and every applicant who has been twice required to divide his application (§ 1.143)," in paragraph (a) and by changing "§§ 1.144 and 1.206" to "§ 1.206" in paragraph (c).

44. Section 1.192 is amended by changing "six months from the date of" in paragraph (a) to "the time allowed for response to" and by adding the following sentence to paragraph (a): "Two extra copies of the brief are required if an oral hearing is requested."

45. Section 1.193 is amended by inserting "of argument" after "points" in paragraph (b) and by adding the following sentence to paragraph (b): "However, if the examiner's answer states a new ground of rejection appellant may file a reply thereto within sixty days from the date of such answer; such reply may include any amendment or material appropriate to the new ground."

46. Section 1.197 is amended by cancelling the present paragraph (b) and by adding the following paragraphs (b) and (c):

§ 1.197 *Action following decision.* * * *

(b) Any request or petition for rehearing or reconsideration must be filed within thirty days from the date of the decision.

(c) When an appeal is or stands dismissed, or when the time for appeal to the court or review by civil action (§ 1.304) has expired and no such appeal or civil action has been filed, proceedings in the application are considered terminated as of the dismissal or expiration date except in those applications in which claims stand allowed or in which the nature of the decision requires further action by the examiner. If an appeal to the court or a civil action has been filed, proceedings in the application are similarly considered terminated when the appeal or civil action is terminated.

47. Section 1.209 is amended by cancelling the last sentence in paragraph (b).

48. Section 1.216 (b) (2) is amended by changing "R. S. 4887; 35 U. S. C. 32," to "35 U. S. C. 119".

49. Section 1.217 (a) (2) is amended by changing "the proviso in 60 Stat. 943, sec. 9; 35 U. S. C. 109," to "the second sentence of 35 U. S. C. 104,".

50. Section 1.223 is amended by changing the second sentence of paragraph (a) to read: "This includes joint applicants or patentees; a new preliminary statement will not be received in the event the application is amended or the patent is corrected to remove the names of those not inventors nor will a preliminary statement alleging different dates be received if an application is amended or a patent is corrected to include a joint inventor, except by motion under § 1.222."

51. Section 1.224 is amended by changing the second sentence to read: "A prior foreign application cannot be relied upon unless the necessary papers to prove a date of priority under 35 U. S. C. 119, including a translation, § 1.55, are filed within three months, or within such extension of time as may be granted, from the filing of the preliminary statement, if they have not previously been filed."

52. Section 1.226 is amended by inserting "and affidavits under § 1.204 of the nature specified in § 1.131" after "and § 1.202" in the first undesignated paragraph and by changing the second undesignated paragraph to read:

The notices will also ordinarily specify the motion period (§ 1.231) and may also include an order to show cause (§ 1.225).

53. Section 1.232 is amended by changing "the claims of which have" to "a claim of which has" in paragraph (a)

and by inserting "by the parties" before the period in paragraph (b).

54a. Section 1.233 is amended by changing paragraph (b) to read:

§ 1.232 *Motions to amend.* * * *

(b) Such motions must, if possible, be made within the time set, but if a motion to dissolve the interference has been brought by another party, such motions may be made within thirty days from the filing of the motion to dissolve. In case of action by the primary examiner under § 1.237 (a), such motions may be made within thirty days from the date of the primary examiner's decision on motion wherein an action under § 1.237 (a) was incorporated or the date of the communication giving notice to the parties of the proposed dissolution of the interference.

b. And by adding the following before the period in the second sentence of paragraph (e): "and such a declaration as to added claims need not be signed or sworn to by the inventor in person."

55. Section 1.236 is amended by cancelling "but not in addition thereto" in the second sentence of paragraph (b) and adding "in addition to his principal brief referred to in paragraph (a) of this section" before the period at the end of this sentence.

56. Section 1.241 is amended by changing "each party" to "each opposing party" and by inserting a comma after "disclosure".

57. Section 1.243 is amended by changing "Board of Interference Examiners" to "Board of Patent Interferences" in each occurrence.

58. Section 1.247 is amended by changing "declaration of the interference" to "time the other party has the right of access thereto (§ 1.226)" in paragraph (a) and by changing paragraph (f) to read "statutory disclaimers under 35 U. S. C. 253".

59. Section 1.251 is amended by changing paragraph (b) to read:

§ 1.251 *Assignment of times for taking testimony.* * * *

(b) The time for taking testimony will ordinarily be assigned in notices sent to the parties after motions under §§ 1.232 to 1.235 have been determined or, if no such motions have been filed, after the close of the motion period (§ 1.231). The date for final hearing will ordinarily be set in the same notices.

60. Section 1.254 is amended by changing "Board of Interference Examiners" to "Board of Patent Interferences".

61. Section 1.255 is amended by changing "Interference Examiners" to "Patent Interferences".

62. Section 1.256 is amended by changing "Board of Interference Examiners" to "Board of Patent Interferences", each occurrence, and by changing paragraph (c) to read:

§ 1.256 *Final hearing.* * * *

(c) Petitions for rehearing or reconsideration or modification of the decision must be filed within thirty days from the date of the decision.

63. Section 1.258 (a) is amended by changing "Board of Interference Examiners" to "Board of Patent Interferences".

64. Section 1.259 is amended by changing "Board of Interference Examiners" to "Board of Patent Interferences", each occurrence.

65. Section 1.263 is amended to read:

§ 1.263 *Statutory disclaimer by patentee.* The disclaimer referred to in § 1.262, when made by a patentee in interference is not a disclaimer under 35 U. S. C. 253. If a disclaimer under the statute (See § 1.321) cancelling claims involved in the interference from the patent, is made by the patentee, including all assignees as shown by the records of the Patent Office, the interference will be dissolved pro forma as to such claims.

66. Section 1.277 is amended by changing paragraph (b) to read:

§ 1.277 *Form of deposition.* * * *

(b) In order to have a ribbon copy of the record available as required by § 1.253 (f), a carbon copy of the deposition may be executed by the witnesses and the officer and filed as required by § 1.276.

67. Section 1.282 is amended by changing paragraph (b) to read:

§ 1.282 *Official records and printed publications.* * * *

(b) In the case of prior applications, the filing date of which is claimed, compliance with the requirements of §§ 1.216 and 1.224 is sufficient notice under this section.

68. The centerhead preceding § 1.301 is changed to read "Review of Patent Office Decisions by Court".

69. Section 1.301 is amended to read as follows:

§ 1.301 *Appeal to U. S. Court of Customs and Patent Appeals.* Any applicant dissatisfied with the decision of the Board of Appeals, and any party to an interference dissatisfied with the decision of the Board of Patent Interferences, may appeal to the U. S. Court of Customs and Patent Appeals. The appellant must take the following steps in such an appeal: (a) In the Patent Office give notice to the Commissioner and file the reasons of appeal (See §§ 1.302 and 1.304); (b) in the court, file a petition of appeal and a certified transcript of the record within a specified time after filing the reasons of appeal, and pay the fee for appeal, as provided by the rules of the court. The transcript will be transmitted to the Court by the Patent Office on order of and at the expense of the appellant.

70. Section 1.302 is amended by changing paragraph (a) to read:

§ 1.302 *Notice and reasons of appeal.* (a) When an appeal is taken to the U. S. Court of Customs and Patent Appeals, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within the time specified in § 1.304, his reasons of appeal specifically set forth in writing.

71. New § 1.303 reading as follows is established:

§ 1.303 *Civil action under 35 U. S. C. 145, 146.* (a) Any applicant dissatisfied with the decision of the Board of Appeals, and any party dissatisfied with the decision of the Board of Patent Interferences, may, instead of appealing to the U. S. Court of Customs and Patent Appeals (§ 1.301), have remedy by civil action under 35 U. S. C. 145 and 146 respectively. Such civil action must be commenced within the time specified in § 1.304.

(b) If an applicant in an ex parte case has taken an appeal to the U. S. Court of Customs and Patent Appeals, he thereby waives his right to proceed under 35 U. S. C. 145.

(c) If a defeated party to an interference proceeding has taken an appeal to the U. S. Court of Customs and Patent Appeals, and any adverse party to the interference shall, within twenty days after the appellant shall have filed notice of the appeal to the court (§ 1.302), file notice with the Commissioner that he elects to have all further proceedings conducted as provided in 35 U. S. C. 146, certified copies of such notices will be transmitted to the U. S. Court of Customs and Patent Appeals for such action as may be necessary. The notice of election must be served as provided in § 1.248.

72. New § 1.304 reading as follows is established:

§ 1.304 *Time for appeal or civil action.* The time for filing the notice and reasons of appeal to the U. S. Court of Customs and Patent Appeals (§ 1.302) or for commencing a civil action (§ 1.303) is sixty days from the date of the decision of the Board of Appeals or the Board of Patent Interferences. If a petition for rehearing or reconsideration is filed within thirty days after the date of the decision of the Board of Appeals or Board of Patent Interferences, the time is extended to thirty days after action on the petition. No petition for rehearing or reconsideration filed outside the time specified herein after such decision, nor any proceedings on such petition shall operate to extend the period of sixty days hereinabove provided. If a defeated party to an interference has taken an appeal to the U. S. Court of Customs and Patent Appeals and an adverse party has filed notice under 35 U. S. C. 141 that he elects to have all further proceedings conducted under 35 U. S. C. 146 (§ 1.303 (c)), the time for filing a civil action thereafter is specified in 35 U. S. C. 141.

73. Section 1.305 and the centerhead preceding this section are cancelled.

74. Section 1.311 is amended by changing "the act of April 30, 1928, 45 Stat. 467; 35 U. S. C. 45" to "35 U. S. C. 266".

75. Section 1.314 is amended by changing the last two sentences to read: "In the absence of request to suspend issue of the patent up to three months, the patent ordinarily will issue in regular course in about five weeks. The issue closes weekly on Thursday, and the patents ordinarily bear date as of the fifth Tuesday thereafter."

76. Section 1.321 is amended to read as follows:

§ 1.321 *Statutory disclaimer in patent.* A disclaimer under 35 U. S. C. 253 must identify the patent and the claim or claims which are disclaimed, and be signed by the person making the disclaimer, who shall state therein the extent of his interest in the patent. A disclaimer not a disclaimer of a complete claim or claims may be refused recordation. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted. (See § 1.21 for fee.)

77. Section 1.322 is amended to read as follows:

§ 1.322 *Certificate of correction of Office mistake.* (a) A certificate of correction under 35 U. S. C. 254 may be issued at the request of the patentee or his assignee and endorsed on the patent itself. Such certificate will not be issued at the request or suggestion of anyone not owning an interest in the patent, nor on motion of the Office, without first notifying the patentee (including any assignee of record) and affording him an opportunity to be heard.

(b) If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Commissioner may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

78. Section 1.323 is amended to read as follows:

§ 1.323 *Certificate of correction of applicant's mistake.* Whenever a mistake of a clerical or typographical nature or of minor character which was not the fault of the Office, appears in a patent and a showing is made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, which shall be endorsed on the patent itself, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination.

79. New § 1.324 reading as follows is established:

§ 1.324 *Correction of error in joining inventor.* Whenever a patent is issued and it appears that there was a misjoinder or nonjoinder of inventors and that such misjoinder or omission occurred by error and without deceptive intention, the Commissioner may, on application of all the parties and the assignees and satisfactory proof of the facts, or on order of a court before which such matter is called in question, issue a certificate deleting the misjoined inventor from the patent or adding the non-joined inventor to the patent.

80. New § 1.325 reading as follows is established:

§ 1.325 *Other mistakes not corrected.* Mistakes other than those provided for in §§ 1.322, 1.323, 1.324, and not affording legal grounds for reissue will not be corrected after the date of the patent.

81. Section 1.331 (a) is amended by changing "R. S. 4898; 35 U. S. C. 47" and "R. S. 4898" to "35 U. S. C. 261".

82. Section 100.16 is amended to read as follows:

§ 100.16 *Times for taking action; expiration on Saturday, Sunday or holiday.* Whenever periods of time are specified in these sections in days, calendar days are intended unless otherwise indicated. When the day, or the last day, fixed by statute or by or under these sections for taking any action or paying any fee falls on Saturday, Sunday, or on a holiday within the District of Columbia, the action may be taken or the fee paid, on the next succeeding day which is not a Saturday, Sunday, or a holiday.

83. Section 100.21 is amended by changing ".20" to ".30" in items (u) and (v) and by changing "20" to "30" in item (x).

84. Section 100.46 is amended by changing "R. S. 487, as amended; 35 U. S. C. 11" in the cross reference at the end to read "35 U. S. C. 32".

85. Section 100.262 is amended by adding the following sentence at the end of the second paragraph: "Petition for rehearing or reconsideration or modification of the decision on appeal must be filed within thirty days from the date of the decision."

86. Section 100.263 is amended by adding the following sentence at the end: "Petition for rehearing or reconsideration or modification of the decision on appeal must be filed within thirty days from the date of the decision."

87. Section 100.264 is amended by changing "section 4915, Revised Statutes (35 U. S. C. 63)," to read "35 U. S. C. 145 or 146," and by changing "§§ 1.301, 1.302 and 1.305" to read §§ 1.301 to 1.304".

(Sec. 41, 60 Stat. 440, Pub. Law 593, 82d Cong.; 15 U. S. C. 1123. Interpret or apply Pub. Law 593, 82 Cong.)

[SEAL] JOHN A. MARZALL,
Commissioner of Patents.

Approved:

THOMAS W. S. DAVIS,
Acting Secretary of Commerce.

[F. R. Doc. 52-12698; Filed, Dec. 1, 1952; 8:45 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter C—Management of Wildlife Conservation Areas

PART 33—CENTRAL REGION

SUBPART—LACREEK NATIONAL WILDLIFE REFUGE, SOUTH DAKOTA

FISHING

Basis and purpose. On the basis of observations and reports of field representatives of the Fish and Wildlife Service, it has been determined that the present prohibition against the use of live bait in connection with noncommercial fishing in certain waters of the Lacreek National Wildlife Refuge, South Dakota, is no longer necessary, and may be rescinded.

Since the following revocation is a relaxation of existing regulations applicable to the Lacreek National Wildlife Refuge, notice and public procedure thereon are not required (60 Stat. 237; 5 U. S. C. 1001, et seq.).

Effective on the date of publication of this document in the FEDERAL REGISTER, § 33.95 *Bait restrictions,* is hereby revoked.

(Sec. 10, 45 Stat. 1224; 16 U. S. C. 715i)

Dated: November 25, 1952.

CLARENCE COTTAM,
Acting Director.

[F. R. Doc. 52-12712; Filed, Dec. 1, 1952; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Internal Revenue

[26 CFR Part 29]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

REMOVAL OF THE 5 PERCENT LIMITATION IN THE DEDUCTION OF MEDICAL EXPENSES FOR TAXPAYERS AGED 65 OR OVER

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 62 and 3791 of the Internal Revenue Code (53 Stat. 32, 467; 26 U. S. C. 62; 3791).

[SEAL] JUSTIN F. WINKLE,
Acting Commissioner of Internal Revenue.

In order to conform Regulations 111 (26 CFR Part 29) to section 307 of the Revenue Act of 1951 (82d Cong., 1st Sess.), approved October 20, 1951, relating to the removal of the 5 percent limitation in the deduction of medical ex-

penses for taxpayers aged 65 or over, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 29.23 (x)–1 the following:

SEC. 307. MEDICAL EXPENSES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Amendment of section 23 (x).* Section 23 (x) (relating to medical, dental, etc., expenses) is hereby amended to read as follows:

(a) *Amendment of section 23 (x).* Sec- penses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent specified in section 25 (b) (3)—

(1) If neither the taxpayer nor his spouse has attained the age of 65 before the close of the taxable year, to the extent that such expenses exceed 5 per centum of the adjusted gross income; or

(2) If either the taxpayer or his spouse has attained the age of 65 before the close of the taxable year, (A) the amount of such expenses for the care of the taxpayer and his spouse, and (B) the amount by which such expenses for the care of such dependents exceed 5 per centum of the adjusted gross income.

The deduction under this subsection shall not be in excess of $1,250 multiplied by the number of exemptions allowed under section 25 (b) for the taxable year (exclusive of exemptions allowed under section 25 (b) (1) (B) or (C), with a maximum deduction of $2,500, except that the maximum deduction shall be $5,000 in the case of a joint return of husband and wife under section 51 (b). The term "medical care", as used in this subsection, shall include amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body (including amounts paid for accident or health insurance). The determination of whether an individual is married at any time during the taxable year shall be made in accordance with the provisions of section 51 (b) (5).

(b) *Effective date.* The amendment made by this section shall be applicable with respect to taxable years beginning after December 31, 1950.

PAR. 2. Section 29.23 (x)–1, as amended by Treasury Decision 5687, approved February 16, 1949, is further amended as follows:

(A) By striking therefrom paragraph (c) and inserting in lieu thereof the following:

(c) In the case of medical expenses for the care of a person who is the taxpayer's spouse or dependent, the deduction under section 23 (x) is allowable if the status of such person as "spouse" or "dependent" of the taxpayer exists either at the time the expenses were incurred or at the time the payment of the expenses was made. Thus, payments made in June 1942, by A, for medical services rendered B, his wife, in 1941 may be deducted by A for 1942 even though prior to payment for that year B died or secured a divorce; and payments made in July 1942, by C for medical services rendered D in 1941 may be deducted by C for 1942 even though C and D were not married until June 1942. However, with respect to taxable years beginning after December 31, 1950, the status of a person as the "spouse" of the taxpayer must exist as of the close of the taxable year of the taxpayer in which either the expenses were incurred or the payment was made, or, in the case of the death of the spouse in either such year, as of the time of such death. In determining whether such status exists a taxpayer who is legally separated from his spouse under a decree of separate maintenance is not considered as married.

(B) By inserting in the first sentence of paragraph (e), immediately following "after December 31, 1943," the following: "and before January 1, 1951,".

(C) By striking the last sentence of paragraph (e) and inserting in lieu thereof the following new paragraphs (f) and (g) and by redesignating present paragraphs (f), (g) and (h) as paragraphs (h), (i) and (j):

(f) For taxable years beginning after December 31, 1950, there is no 5 percent limitation on the deduction for medical expenses, not compensated for by insurance or otherwise, expended for the care of taxpayer or his spouse, where either the taxpayer or his spouse has attained the age of 65 before the close of the taxable year. In such cases the taxpayer may deduct (subject to the maximum deduction allowable as described in this section for taxable years beginning after December 31, 1947): (1) The amount of all payments for the medical care of the taxpayer and his spouse; and (2) the amount by which his payments for the medical care of his dependents exceeds 5 percent of his adjusted gross income. In determining the amount of medical expenses deductible under subparagraph (2) of this paragraph (see section 23 (x) (2) (B)) the amount deductible under subparagraph (1) of this paragraph (see section 23 (x) (2) (A)) shall not be included for the purpose of meeting the 5 percent limitation. (For computations illustrating this rule, see examples (6) and (7) at the end of this section.) In determining the age of an individual for the purposes of the unlimited deduction of medical payments for old age, the last day of the taxable year of the taxpayer is the controlling date. Thus, a taxpayer who has not attained the age of 65 at the end of the taxable year may not claim the unlimited deduction with respect to payments made for the medical care of himself or his spouse if the spouse dies before attaining the age of 65 even though such spouse would have attained the age of 65 before the close of the taxable year of the taxpayer.

(g) The deduction for medical expenses shall not be deemed to have been allowed for any taxable year for which the taxpayer claimed and was allowed the standard deduction under section 23 (aa).

(D) By inserting after example 5 the following:

Example (6). Taxpayer E, who attained the age of 65 years on February 22, 1951, makes his return on the basis of the calendar year. During the year 1951, E has adjusted gross income of $8,000, and pays the following medical bills: (a) $240 (3% of adjusted gross income) for the medical care of himself and his spouse, and (b) $320 (4% of adjusted gross income) for the medical care of his dependent son. The allowable deduction under section 23 (x) is $240. No deduction is allowable for the amount of $320 paid for medical care of the dependent son since the amount of such payment (determined without regard to the payments for the care of the taxpayer and his spouse) does not exceed 5 percent of adjusted gross income.

Example (7). H and W make a joint return for the calendar year 1951 on which four exemptions are allowed (exclusive of exemptions under section 25 (b) (1) (B) or (C)), one for each taxpayer and two for their dependent minor children. W became 65 years of age on August 15, 1951. The adjusted gross income of H and W in 1951 is $40,000 and they pay in such year the following amounts for medical care: (a) $1,500 for the medical care of H; (b) $2,500 for the medical care of W; and (c) $3,500 for the medical care of the children. The allowable deduction under section 23 (x) for medical expenses paid in 1951 is $5,000 computed as follows:

Payment for medical care of H and W in 1951		$4,000
Payment for medical care of children in 1951	$3,500	
Less 5 percent of $40,000 (adjusted gross income)	2,000	
		1,500
		$5,500
Maximum allowable deduction in 1951		$5,000

[F. R. Doc. 52–12748; Filed, Dec. 1, 1952; 8:58 a. m.]

[26 CFR Part 40]

EXCESS PROFITS TAXES; TAXABLE YEARS ENDING AFTER JUNE 30, 1950

EXCESS PROFITS CREDIT BASED ON INCOME IN CONNECTION WITH CERTAIN TAXABLE ACQUISITIONS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 62 and 3791 of the Internal Revenue Code (53 Stat. 32, 467; 26 U. S. C. 62, 3791).

[SEAL] JUSTIN F. WINKLE,
Acting Commissioner of Internal Revenue.

In order to conform Regulations 130 (26 CFR Part 40) to section 521 of the Revenue Act of 1951, approved October 20, 1951, such regulations are hereby amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 40.435–1 the following:

SEC. 521. EXCESS PROFITS CREDIT BASED ON INCOME IN CONNECTION WITH CERTAIN TAXABLE ACQUISITIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(b) Technical amendments.

(1) Section 435 (a) (3) (relating to amount of excess profits credit) is hereby amended by inserting before the period at the end thereof the following: ", and in the case of certain taxable acquisitions, see part IV of this subchapter."

* * * * *

SEC. 523. EFFECTIVE DATE OF TITLE V (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Except as otherwise provided in section 506 (d), the amendments made by this title (incl. sec. 521) shall be applicable only with respect to taxable years ending after June 30, 1950.

PAR. 2. There is inserted immediately preceding § 40.461–1, as added by Treasury Decision 5865, approved November 13, 1951, the following:

SEC. 521. EXCESS PROFITS CREDIT BASED ON INCOME IN CONNECTION WITH CERTAIN TAXABLE ACQUISITIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(b) *Technical amendments.*

* * * * *

(2) Section 461 (relating to definitions under part II) is amended by inserting at the end thereof the following new subsections:

(g) *Component corporation which was a purchasing corporation in a previous transaction.* See section 462 (b) (4) for rules applicable if the component corporation was a purchasing corporation (as defined in part IV) in a previous part IV transaction, or if (as an acquiring corporation in a previous part II transaction) it was subject to the provisions of section 462 (b) (4).

(h) *Definition of part II transaction.* For the purpose of this subchapter, the term "part II transaction" means a transaction described in section 461 (a).

* * * * *

SEC. 523. EFFECTIVE DATE OF TITLE I (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Except as otherwise provided in section 560 (d), the amendments made by this title (incl. sec. 521) shall be applicable only with respect to taxable years ending after June 30, 1950.

PAR. 3. There is inserted immediately preceding § 40.462–1, as added by Treasury Decision 5865, the following:

SEC. 521. EXCESS PROFITS CREDIT BASED ON INCOME IN CONNECTION WITH CERTAIN TAXABLE ACQUISITIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(b) *Technical amendments.*

* * * * *

(3) Section 462 (b) (relating to the method of recomputing the excess profits net income of an acquiring corporation under part II) is hereby amended by adding at the end thereof the following new paragraph:

(4) If the average base period net income of the acquiring corporation is determined under section 435 (d) with reference to this subsection, and if the provisions of section 474 (b) (relating to the computation of excess profits net income in the case of certain purchasing corporations) were applicable to the component corporation immediately prior to the part II transaction (or would have been applicable, if such part II transaction had occurred in a taxable year of the component corporation ending after June 30, 1950), then the excess profits net income (or deficit therein) of the component corporation shall, for the purpose of this subsection, be determined with the application of the provisions of section 474 (b). For the purpose of this paragraph, if a component corporation was an acquiring corporation in a previous part II transaction and, immediately prior to the later part II transaction, the provisions of this paragraph were applicable to such component corporation, its excess profits net income (or deficit therein) shall be determined with the application of the provisions of the preceding sentence. This paragraph shall be applicable to an acquiring corporation only if—

(A) the properties acquired by the acquiring corporation from the component corporation include substantially all of the properties (other than cash), or properties acquired in the ordinary course of business in the replacement of properties, which the component corporation acquired either from the selling corporation in the part IV transaction or from a previous component corporation subject (immediately prior to such acquisition) to the provisions of this paragraph;

(B) the business or businesses acquired by the acquiring corporation were operated by the acquiring corporation from the date of such transaction to the end of the taxable year or were transferred during the taxable year by the acquiring corporation in a part II transaction to which the provisions of this paragraph are applicable; and

(C) in the event that the part II transaction is one described in section 461 (a) (1) (E), the provisions of section 462 (i) (6) are satisfied.

(4) Section 462 (i) (6) (relating to allocation rules in the case of transactions described in section 461 (a) (1) (E)) is hereby amended by adding at the end thereof the following: "Notwithstanding the provisions of paragraph (1), if an acquiring corporation in a transaction described in section 461 (a) (1) (E) determines its average base period net income under section 435 (d) by recomputing its excess profits net income under the provisions of section 462 (b) (4), the amount of the component corporation's excess profits net income for any month which shall be taken into account by the acquiring corporation shall be such portion of the component corporation's excess profits net income for such month as is determined on the basis of the earnings experience of the assets transferred and the assets retained by the component corporation.

* * * * *

SEC. 523. EFFECTIVE DATE OF TITLE V (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Except as otherwise provided in section 506 (d), the amendments made by this title [incl. sec. 521] shall be applicable only with respect to taxable years ending after June 30, 1950.

PAR. 4. Section 40.462–1, as added by Treasury Decision 5865, is amended by adding at the end thereof the following:

(d) *Recomputation of excess profits net income of acquiring corporation with reference to that of a component corporation which was a purchasing corporation in a Part IV transaction.* (1) This paragraph is applicable where a purchasing corporation in a Part IV transaction becomes a component corporation in a later Part II transaction and immediately prior to the Part II transaction the provisions of section 474 (b) were applicable in computing the average base period net income of the component corporation (or such provisions would have been applicable to the component if the Part II transaction had occurred in a taxable year of the component corporation ending after June 30, 1950). In such case if the average base period net income of the acquiring corporation in the Part II transaction is determined under the general average method of section 435 (d) by recomputing the excess profits net income with reference to section 462 (b), in applying paragraphs (b) and (c) of this section to the acquiring corporation the excess profits net income (or deficit therein) of the component corporation must be determined with the application of the provisions of section 474 (b), whether or not the component corporation computed its average base period net income with the application of section 474 (b). For the application of the provisions of section 474 (b) to a purchasing corporation in a Part IV transaction, see §§ 40.474–1 and 40.474–2. This paragraph shall not be applicable to the acquiring corporation unless each of the following conditions is met:

(i) The properties acquired by the acquiring corporation from the component corporation must include substantially all the properties (other than cash), or properties acquired in the ordinary course of business in the replacement of properties, which such component corporation acquired from the selling corporation in the Part IV transaction or from a previous component corporation to which the provisions of section 462 (b) (4) and of this paragraph were applicable;

(ii) The business or businesses acquired by the acquiring corporation must have been operated by the acquiring corporation from the date of the Part II transaction to the end of the taxable year, unless such business or businesses were transferred during the taxable year by the acquiring corporation in a subsequent Part II transaction to which the provisions of section 462 (b) (4) and of this paragraph are applicable; and

(iii) In the event the Part II transaction is a transaction described in section 461 (a) (1) (E) the provisions of section 462 (i) (6), relating to the allocation of base period experience, must be satisfied. See § 40.462–9 (c).

(2) Similarly, in the case of successive Part II transactions, subparagraph (1) of this paragraph is also applicable if a purchasing corporation in a Part IV transaction becomes a component corporation in a Part II transaction and thereafter its acquiring corporation becomes a component corporation in a later Part II transaction, and if immediately prior to the later Part II transaction the provisions of section 462 (b) (4) and of (d) of this section were applicable in computing the average base period net income of the previous acquiring corporation (or such provisions would have been applicable to the previous acquiring corporation if the later Part II transaction had occurred in a taxable year of the previous acquiring corporation ending after June 30, 1950). In such case, if the later acquiring corporation determines its average base period net income under the general average method of section 435 (d) by recomputing the excess profits net income with reference to section 462 (b), in applying paragraphs (b) and (c) of this section to such later acquiring corporation the excess profits net income (or deficit therein) of its component corporation (that is, the previous acquiring corporation) shall be determined with the application of the provisions of section 474, whether or not the component

corporation determined its average base period net income by recomputing its excess profits net income with reference to section 462 (b). As in the case of the first acquiring corporation, this paragraph is applicable to the second acquiring corporation only if the conditions set forth in subparagraph (1) (i), (ii), and (iii) of this paragraph are met in the case of the second acquiring corporation.

PAR. 5. Section 40.462–9, as added by Treasury Decision 5865, is amended by adding at the end thereof the following:

(c) *Part II transaction following Part IV transaction.* If an acquiring corporation in a transaction described in section 461 (a) (1) (E) determines its average base period net income under the general average method of section 435 (d), if the component corporation in such transaction was a purchasing corporation in a previous Part IV transaction (or was an acquiring corporation from such a purchasing corporation), and if the acquiring corporation recomputes its excess profits net income with the application of the provisions of section 462 (b) (4), the allocation of the base period experience of the component corporation shall be made on the basis of the special rule provided in section 462 (i) (6) in lieu of the allocation provided in paragraph (a) or (b) of this section. The special rule provided in section 462 (i) (6) requires that the allocation be made as follows:

(1) For the period prior to the date of the Part IV transaction, the excess profits net income or deficit (or portion thereof) properly attributable to the business or businesses involved in the Part IV transaction and acquired by the acquiring corporation in the Part II transaction shall be the amounts which, with respect to such business or businesses, were available under Part IV to the purchasing corporation in the Part IV transaction (or would have been available if the Part IV transaction had occurred in a taxable year of the purchasing corporation ending after June 30, 1950).

(2) For the period after the date of the Part IV transaction, the excess profits net income or deficit (or portion thereof) properly attributable to such business or businesses shall be determined under the principles of paragraph (b) of this section but without regard to the requirement of a written agreement for the application of such principles.

(3) If the acquiring corporation acquires, in the Part II transaction, properties of the component corporation not used in such business or businesses, the excess profits net income or deficit properly attributable to such properties shall be determined under paragraph (b) of this section without regard to the requirement for a written agreement as to such allocation.

PAR. 6. There is inserted immediately preceding § 40.463–1, as added by Treasury Decision 5865, the following:

SEC. 521. EXCESS PROFITS CREDIT BASED ON INCOME IN CONNECTION WITH CERTAIN TAXABLE ACQUISITIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(b) *Technical amendments.*

* * * * *

(5) Section 463 (relating to capital changes) is amended by inserting at the end thereof the following new subsection:

(c) *Component corporation which was a purchasing corporation in a previous transaction.* The Secretary shall provide by regulations for the application of this section in cases to which section 462 (b) (4) is applicable.

* * * * *

SEC. 523. EFFECTIVE DATE OF TITLE V (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Except as otherwise provided in section 506 (d), the amendments made by this title (incl. sec. 521) shall be applicable only with respect to taxable years ending after June 30, 1950.

PAR. 7. There is inserted immediately after § 40.463–2, as added by Treasury Decision 5865, the following:

§ 40.463–3 *Capital changes in case of Part II transaction following Part IV transaction.* In the case of an acquiring corporation in a Part II transaction to which the provisions of section 462 (b) (4) (relating to the determination of the excess profits net income or deficit with the application of the provisions of section 474 (b) in the case of a component corporation which was a purchasing corporation in a previous Part IV transaction) are applicable, the net capital addition or reduction of the acquiring corporation shall be determined under § 40.463–1 by recomputing the items of transferred capital addition and reduction of the component corporation with the application of the provisions of § 40.474–5. Such adjustment shall be made whether or not the component corporation computed its excess profits credit with the application of the provisions of Part IV. The adjustment provided in this section shall also be made in the case of a component corporation which was an acquiring corporation in a previous Part II transaction to which the provisions of section 462 (b) (4) were applicable or would have been applicable if such previous Part II transaction had occurred in a taxable year of the component corporation ending after June 30, 1950. In such case the adjustment shall be made with respect to the later acquiring corporation whether or not the previous acquiring corporation computed its excess profits credit by application of Part II.

PAR. 8. There is inserted immediately preceding § 40.464–1, as added by Treasury Decision 5865, the following:

SEC. 521. EXCESS PROFITS CREDIT BASED ON INCOME IN CONNECTION WITH CERTAIN TAXABLE ACQUISITIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(b) *Technical amendments.*

* * * * *

(6) Section 464 (relating to capital changes during the base period) is amended by inserting at the end thereof the following new subsection:

(c) The Secretary shall provide by regulations for the application of this section in cases to which section 462 (b) (4) is applicable.

SEC. 523. EFFECTIVE DATE OF TITLE V (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Except as otherwise provided in section 506 (d), the amendments made by this title (incl. sec. 521) shall be applicable only with respect to taxable years ending after June 30, 1950.

PAR. 9. There is inserted immediately after § 40.464–2, as added by Treasury Decision 5865 the following:

§ 40.464–3 *Base period capital addition in case of Part II transaction following Part IV transaction.* In the case of an acquiring corporation in a Part II transaction to which the provisions of section 462 (b) (4) (relating to the determination of the excess profits net income or deficit with the application of the provisions of section 474 (b) in the case of a component corporation which was a purchasing corporation in a previous Part IV transaction) are applicable, the base period capital addition of the acquiring corporation shall be determined under § 40.464–1 by computing the component corporation's yearly base period capital and its base period capital addition (whichever is available to the acquiring corporation) with the application of the provisions of § 40.474–6. Such adjustment shall be made whether or not the component corporation computed its excess profits credit with the application of the provisions of Part IV. The adjustment provided in this section shall also be made in the case of a component corporation which was an acquiring corporation in a previous Part II transaction to which the provisions of section 462 (b) (4) were applicable (or would have been applicable if the previous Part II transaction had occurred in a taxable year of the component corporation ending after June 30, 1950). In such case the adjustment shall be made with respect to the later acquiring corporation whether or not the previous acquiring corporation computed its excess profits credit by application of Part II.

PAR. 10. There is added immediately after § 40.472–8 the following:

SEC. 521. EXCESS PROFITS CREDIT BASED ON INCOME IN CONNECTION WITH CERTAIN TAXABLE ACQUISITIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *General rule.* Subchapter D (relating to the excess profits tax) of chapter 1 is hereby amended by inserting immediately following section 472 the following new part:

PART IV—EXCESS PROFITS CREDIT BASED ON INCOME IN CONNECTION WITH CERTAIN TAXABLE ACQUISITIONS OCCURRING PRIOR TO DECEMBER 1, 1950.

SEC. 474. EXCESS PROFITS CREDIT BASED ON INCOME—CERTAIN TAXABLE ACQUISITIONS.

(a) *Definitions.* For the purpose of this part—

(1) *Purchasing corporation.* The term "purchasing corporation" means a corporation which, before December 1, 1950, acquired—

(A) In a transaction other than a transaction described in section 461 (a), substantially all of the properties (other than cash) of another corporation, of a partnership, or

of a business owned by a sole proprietorship; or

(B) Properties of another corporation or of a partnership if (i) such properties constituted, immediately prior to the acquisition, substantially all of the properties (other than cash) of one or more separate businesses of such other corporation or such partnership, (ii) such other corporation or such partnership was engaged in one or more separate businesses other than those described in clause (i), and (iii) substantially all of the properties (other than cash) of such other corporation or such partnership were acquired, in furtherance of a single plan of complete liquidation for such other corporation or such partnership, by the purchasing corporation, and by one or more other persons, in transactions other than transactions described in section 461 (a).

(2) *Selling corporation.* The term "selling corporation" means a corporation, a partnership, or a business owned by a sole proprietorship, as the case may be, properties of which were acquired by a purchasing corporation in a transaction described in paragraph (1).

(3) *Part IV transaction.* The term "part IV transaction" means a transaction described in paragraph (1).

(b) *Average base period net income of purchasing corporation.* The average base period net income of a purchasing corporation, if computed with reference to this part, shall be determined under section 435 (d). The average base period net income under section 435 (d) of a purchasing corporation shall be determined by computing its excess profits net income either with or without reference to this part, whichever produces the lesser tax under this subchapter for the taxable year for which the tax is being computed. If computed with reference to this part, the excess profits net income of a purchasing corporation for any month of its base period shall be its excess profits net income (or deficit therein), computed without reference to this part, and increased or decreased, as the case may be, by the addition or reduction resulting from including—

(1) In the case of a transaction described in subsection (a) (1) (A), the excess profits net income (or deficit therein) for such month of the selling corporation, or

(2) In the case of a transaction described in subsection (a) (1) (B), the excess profits net income (or deficit therein) for such month of the selling corporation properly attributable to the business or businesses acquired by the purchasing corporation and properly allocable to such purchasing corporation.

The excess profits net income of a purchasing corporation for any month, recomputed as provided in the previous sentence, shall not be less than zero.

(c) *Limitations.* This part shall apply only if each of the following conditions is satisfied:

(1) The selling corporation (A) did not, after the part IV transaction (or the last transaction described in subsection (a) (1) (B)), continue any business activities other than those incident to its complete liquidation, and (B) within a reasonable time after ceasing business activities, completely liquidated in a transaction other than a transaction described in section 461 (a), and ceased existence.

(2) During so much of the base period of the purchasing corporation and of the period thereafter as preceded the part IV transaction, the properties acquired in the part IV transaction were substantially all of the properties (other than cash) which were used, or which in the ordinary course of business replaced properties used, by the selling corporation (or by a component corporation, as defined in section 461 (b), of such selling corporation) in the production of the excess profits net income (or deficit therein) which under subsection (b) increases or decreases the excess profits net income of the purchasing corporation. For the purpose of this paragraph, if a business in the hands of both the selling corporation and the purchasing corporation was operated under a substantially identical franchise or license, granted by the same person, such franchise or license shall be deemed acquired by the purchasing corporation from the selling corporation.

(3) The business or businesses acquired in the part IV transaction (including the properties so acquired or properties in replacement thereof) were operated by the purchasing corporation from the date of such transaction to the end of the taxable year or were transferred during the taxable year by the purchasing corporation in a part II transaction to which the provisions of section 462 (b) (4) are applicable.

(d) *Special rules.* (1) For the purpose of subsection (a) (1), the properties of a selling corporation shall be considered to have been acquired by a purchasing corporation only if acquired from—

(A) such selling corporation, or

(B) persons who received the properties upon the liquidation of such selling corporation and who forthwith transferred such properties to the purchasing corporation in a transaction other than a transaction described in section 461 (a).

(2) The computations required by this part in the case of a selling corporation which is a partnership or a business owned by a sole proprietorship shall be made, under regulations prescribed by the Secretary, as if such partnership or such business owned by a sole proprietorship had been a corporation.

(3) In no case shall more than 100 per centum of the excess profits net income (or deficit therein) for any month of a selling corporation be allocated to the purchasing corporation or, in the case of transactions described in subsection (a) (1) (B), to the several persons (or to any one or more of such persons) receiving the properties of such selling corporation in such transactions.

(e) *Successive transactions.* (1) *Part IV transaction following part IV transaction.* In the case of a selling corporation which was a purchasing corporation in a previous part IV transaction, or which acquired properties of a purchasing corporation in a transaction to which section 462 (b) (4) is applicable, the computations under this part with respect to the selling corporation shall be made without regard to the previous part IV transaction.

(2) *Part IV transaction following part II transaction.* Subject to the provisions of paragraph (1), in the case of a selling corporation which was an acquiring corporation as defined in section 461 (a) in a previous transaction, its excess profits net income (or deficit therein) which increases or decreases the excess profits net income (or deficit therein) of the purchasing corporation under subsection (b) (1) or (2), and its capital changes which are taken into account under this part in determining the capital changes of the purchasing corporation, shall be determined with the application of the rules of part II to such selling corporation with respect to the part II transaction.

(3) *Part II transaction following part IV transaction.* For rules applicable in the case of a part II transaction following a part IV transaction, see sections 462 (b) (4), 463 (c), and 464 (c).

(f) *Regulations.* The Secretary shall by regulations prescribe rules for the application of this part. Such regulations shall include the following rules:

(1) *Base period capital addition.* Rules (consistent with the principles of section 464) for the determination of the base period capital addition of the purchasing corporation by reference to the capital changes of the selling corporation and of the purchasing corporation.

(2) *Net capital addition or reduction.* Rules (consistent with the principles of section 463) for the determination of the net capital addition or reduction of the purchasing corporation by reference to the capital changes of the selling corporation and of the purchasing corporation.

(3) *Excess profits net income.* Rules (consistent with the principles of section 462 (i)) for the determination of the amount of excess profits net income (or deficit therein) of the selling corporation attributable to the business or businesses acquired by a purchasing corporation in a transaction described in subsection (a) (1) (B) and properly allocable to such purchasing corporation.

(4) *Duplication.* Rules for the application under this part of the principles of section 462 (j) (1) and the other provisions of part II relating to the prevention of duplication.

(5) *Excess profits credit.* In the event that the part IV transaction occurred in a taxable year of the purchasing corporation which ended after June 30, 1950, rules (consistent with the principles of section 462 (j) (2)) for the determination of the excess profits credit of such corporation for the year in which the transaction occurred.

Such rules shall not include the principles of section 461 (c) (relating to the excess profits credit of the component corporation), of section 462 (b) (2) (relating to constructive excess profits net income for months during which a corporation was not in existence), of section 462 (1) (relating to minimum average base period net income in the case of certain acquiring corporations), or of such other provisions of part II as relate to sections 435 (e), 442, 443, 444, 445, or 446.

* * * * *

SEC. 523. EFFECTIVE DATE OF TITLE V (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Except as otherwise provided in section 506 (d), the amendments made by this title (incl. sec. 521) shall be applicable only with respect to taxable years ending after June 30, 1950.

§ 40.474–1 *Purpose and scope of Part IV*—(a) *General purpose.* The term "Part IV" when used in these regulations means section 474. Part IV provides rules under which a "purchasing corporation", subject to the conditions and limitations contained therein, may utilize the earnings experience of a "selling corporation" in computing the purchasing corporation's excess profits credit based on income. The term "purchasing corporation" means a corporation which, before December 1, 1950, acquired properties from a "selling corporation" in a transaction meeting the requirements set forth in section 474. See paragraph (b) of this section. A "selling corporation" may be a corporation, a partnership, or a business owned by a sole proprietorship. The excess profits credit of the selling corporation is not determined under Part IV. A foreign corporation cannot be a purchasing corporation and neither a foreign corporation, a foreign partnership, nor a foreign sole proprietorship can be a selling corporation. The average base period net income of a purchasing corporation may be determined by computing its excess profits net income either with or without reference to Part IV, whichever produces the lesser tax. However, if the average base period net income of the purchasing corporation is computed with reference to Part IV, such average base period net income must be determined under the general average method

of section 435 (d). If such average base period net income is computed under the growth alternative of section 435 (e) or under an alternative method provided in section 442, 443, 444, 445, 446, or any subsection of section 459, the excess profits net income of the purchasing corporation may not be computed with reference to Part IV.

(b) *Part IV transactions.* The term "Part IV transaction" means one of the transactions described in section 474 (a) (1). Such transactions do not include any acquisition of property in a transaction described in section 461 (a). The following transactions are Part IV transactions:

(1) The acquisition, before December 1, 1950, by a purchasing corporation, in a transaction other than a transaction described in section 461 (a), of substantially all the properties (other than cash) of another corporation, of a partnership, or of a business owned by a sole proprietorship; or

(2) The acquisition, before December 1, 1950, by a purchasing corporation, in a transaction other than a transaction described in section 461 (a), of part, as distinguished from substantially all, of the properties of another corporation or of a partnership, if the following conditions are met:

(i) Such properties constituted immediately prior to such acquisition substantially all the properties (other than cash) of one or more separate businesses of the other corporation or the partnership;

(ii) The other corporation or the partnership was engaged in one or more separate businesses other than those described in subdivision (i) of this subparagraph; and

(iii) Substantially all the properties (other than cash) of the other corporation or the partnership, including the properties acquired by the purchasing corporation, were acquired, in furtherance of a single plan of complete liquidation of the other corporation or the partnership, by the purchasing corporation and by one or more other persons, whether or not the acquisition by any of such other persons constituted a Part IV transaction but only if the acquisition by any of such other persons was not a transaction described in section 461 (a).

In determining whether the properties acquired by the purchasing corporation in a Part IV transaction constituted substantially all the properties of the transferor, or of a separate business of the transferor, as the case may be, proper regard must be had to any previous dispositions of property by the selling corporation. Properties will be considered to have been acquired in a Part IV transaction only if such properties were acquired from the selling corporation or from shareholders of the selling corporation who received such properties upon the complete liquidation of such corporation and who forthwith transferred them to the purchasing corporation in a transaction other than a transaction described in section 461 (a). In determining whether the transaction is a transaction described in subparagraph (2) of this paragraph the properties acquired by the purchasing corporation shall be considered to have constituted the properties of a separate business of the selling corporation only if such business was a going business unit for which adequate and separate records were maintained. Similarly, in the case of a transaction described in subparagraph (1) of this paragraph, a business owned by a sole proprietorship means a going business unit for which adequate and separate records were maintained.

(c) *Limitations on application of Part IV.* A purchasing corporation may compute its average base period net income under section 435 (d) with reference to Part IV only if each of the following conditions is satisfied:

(1) After the Part IV transaction described in paragraph (b) (1) of this section, or the last transaction described in paragraph (b) (2) of this section, the selling corporation did not engage in any business activities other than those incident to its complete liquidation and, within a reasonable time after ceasing business activities, the selling corporation was completely liquidated in a transaction other than a transaction described in section 461 (a), and its existence terminated.

(2) During so much of the base period of the purchasing corporation and of the period thereafter as preceded the Part IV transaction, the properties acquired by the purchasing corporation in such transaction were substantially all the properties (other than cash) which were used (or which in the ordinary course of business replaced properties used) by the selling corporation (or by a component corporation of such selling corporation in case the latter was an acquiring corporation in a previous Part II transaction) in the production of the excess profits net income or deficit therein which under section 474 (b) increases or decreases the excess profits net income of the purchasing corporation. See § 40.474–2. Thus, for example, if the selling corporation during the base period of the purchasing corporation and prior to the Part IV transaction disposed of properties used in the business acquired by the purchasing corporation, so that the purchasing corporation did not acquire substantially all the properties used in such business, Part IV is not applicable. Similarly, in the case of a transaction described in section 474 (a) (1) (A), if the selling corporation during the base period of the purchasing corporation disposed of the properties used in one business and acquired properties for another business, the properties used in the latter business being acquired by the purchasing corporation, Part IV is not applicable. If the selling corporation described in the preceding sentence had also owned throughout the base period prior to the Part IV transaction a second business, and if the acquisition by the purchasing corporation of the business referred to in the preceding sentence was a transaction described in section 474 (a) (1) (B), Part IV is not applicable if the excess profits net income of the selling corporation available to the purchasing corporation under section 474 (b) (2) includes excess profits net income for months prior to the date the business acquired by the purchasing corporation was owned by the selling corporation. If a business was operated by the selling corporation prior to the Part IV transaction under a franchise or license granted by any person, for example, a franchise or license not transferable by the selling corporation, and if after such transaction the purchasing corporation operated the same business under a substantially identical franchise or license granted by the same person, such franchise or license will be considered to have been acquired by the purchasing corporation from the selling corporation.

(3) The business or businesses transferred to the purchasing corporation in the Part IV transaction (including the properties actually transferred or properties acquired in replacement thereof) were operated by the purchasing corporation from the date of such transaction to the end of the taxable year of the purchasing corporation for which the excess profits credit is computed, unless during the taxable year such business or businesses were transferred by the purchasing corporation in a Part II transaction to which the provisions of section 462 (b) (4) are applicable. See § 40.462–1 (d).

§ 40.474–2 *Rules for determining average base period net income of a purchasing corporation*—(a) *In general.* The average base period net income of a purchasing corporation, for the purpose of the excess profits credit based on income and computed under the general average method (section 435 (d)), may be determined by computing its excess profits net income with or without reference to Part IV, whichever results in the lesser excess profits tax. If computed without reference to Part IV, the excess profits net income of the purchasing corporation is computed with reference to its base period experience, but without reference to the base period experience of the selling corporation. The excess profits net income of the purchasing corporation, if computed with reference to Part IV, shall be its excess profits net income or deficit in excess profits net income for each month of its base period (as defined in section 435 (b)) or each month of the substitute period provided in section 435 (d), whichever is applicable, increased or decreased by the addition or reduction resulting from including the excess profits net income or deficit for that month of the selling corporation to the extent provided in section 474 (b). In applying the provisions of section 474 (b) to a purchasing corporation which acquired properties in two or more Part IV transactions, all selling corporations in such transactions must be taken into account. The excess profits net income of the purchasing corporation for any month recomputed with the application of the provisions of section 474 (b) shall in no event be less than zero. As used in the regulations under Part IV the term "base period experience" refers to the excess profits net income or deficit in excess profits net income. See § 40.474–3 for rules applicable in recomputing the excess profits net income (or deficit therein) in the case of successive transactions under Parts II and IV.

(b) *Method of recomputation of excess profits net income of a purchasing corporation with reference to that of the selling corporation.* The following steps are required for the recomputation of the excess profits net income of a purchasing corporation with reference to the base period experience of the selling corporation:

(1) The excess profits net income or deficit in excess profits net income for each month in the base period of the purchasing corporation and, for the purpose of the substitute period provided in section 435 (d), for each month in the additional period ending March 31, 1950, must be determined for the purchasing corporation and for each selling corporation. Except as provided below with respect to the selling corporation for its taxable year in which the Part IV transaction occurred, the excess profits net income or deficit in excess profits net income of any corporation for any month during any part of which such corporation was in existence is determined by dividing the excess profits net income computed under section 433 (b) (or deficit in excess profits net income computed under section 433 (c)) for the taxable year in which such month falls by the number of full calendar months in such taxable year. In the case of a transaction described in section 474 (a) (1) (B), there is taken into account the portion of the excess profits net income or deficit properly attributable to the business or businesses acquired by the purchasing corporation and properly allocable to such purchasing corporation. In determining the excess profits net income or deficit of the selling corporation for any month during the taxable year in which the Part IV transaction occurred, the excess profits net income or deficit for such taxable year shall be determined without regard to any items arising after the date of the transaction and the number of months in the taxable year shall be determined without regard to the period after the date of the transaction. The excess profits net income of any corporation for any month during no part of which such corporation was in existence shall be zero. For the purpose of the substitute period provided in section 435 (d), the excess profits net income for January, February, or March 1950, is subject to the precentages specified in section 435 (e) (2) (E).

(2) For each month of the purchasing corporation's base period (or, if applicable, the substitute period provided in section 435 (d)) preceding the date of the Part IV transaction, the excess profits net income or deficit in excess profits net income of the purchasing corporation for that month as determined under subparagraph (1) of this paragraph shall be increased or decreased, as the case may be, by the excess profits net income or deficit in excess profits net income of each selling corporation for that month so determined; except that, if the purchasing corporation acquires only a part of the selling corporation's properties in a transaction described in section 474 (a) (1) (B), then the increase or decrease shall be made for only that portion of such selling corporation's excess profits net income or deficit in excess profits net income properly attributable to the business or businesses acquired by the purchasing corporation and properly allocable to the purchasing corporation under paragraph (c) of this section.

(c) *Allocation of excess profits net income of selling corporation to purchasing corporation.* In the case of a Part IV transaction described in section 474 (a) (1) (B), that is, a transaction in which a part as distinguished from all or substantially all the properties of a selling corporation is transferred to a purchasing corporation, the portion of the base period experience of the selling corporation allocated to the purchasing corporation shall be determined under the rules provided in § 40.462–9 (b) for the allocation of the excess profits net income or deficit of a component corporation to an acquiring corporation, subject to the following exceptions:

(1) The agreement referred to in § 40.462–9 (b) shall not be required.

(2) The Commissioner may, for good cause shown, permit the allocation to reflect, as to certain items, an allocation, under the principle of § 40.462–9 (a), based upon the fair market value of the properties (other than cash).

(3) Cash shall not be taken into account in making the allocation.

(4) The provisions of § 40.462–9 (b) (2) which permit allocation of more than 100 percent of the excess profits net income of a partnership shall not be applicable.

(d) *Special rules for partnerships and sole proprietors.* In the case of a business owned by a sole proprietorship or a partnership its excess profits net income or deficit in excess profits net income for each month falling within the purchasing corporation's base period (or the substitute period provided in section 435 (d) if applicable) prior to the date of the Part IV transaction shall be determined as if such partnership or such business owned by a sole proprietorship had been a corporation. See section 474 (d) (2). Among the adjustments which are necessary in such a case are the following:

(1) A reasonable deduction for salary or compensation to each partner or to the sole proprietor for personal services actually rendered shall be allowed.

(2) The credit for dividends received shall be that applicable to corporations.

(3) The treatment of capital gains and losses and of taxes (whether state, local, or other) shall be that applicable to corporations.

(4) The deduction for charitable contributions shall be that allowed by section 23 (q).

(e) *Limitation in case of Part IV transaction occurring in a taxable year ending after June 30, 1950.* In the case of a Part IV transaction occurring in a taxable year of the purchasing corporation ending after June 30, 1950, for the purpose of computing the purchasing corporation's excess profits credit for such taxable year, there is available to the purchasing corporation only a proportionate part of the amount of the monthly excess profits net income (or deficit) of the selling corporation which is otherwise available to the purchasing corporation. Such proportionate part shall be determined by the ratio which the number of days in the taxable year of the purchasing corporation after the day of the transaction bears to the total number of days in such taxable year. In computing the excess profits credit of the purchasing corporation for subsequent taxable years the limitation stated in this paragraph is not applicable.

(f) *Examples.* The computation of the average base period net income of the purchasing corporation determined under the general average method of section 435 (d) by computing the excess profits net income with reference to section 474 (b) may be illustrated by the following example:

Example. The P Corporation was in existence and commenced business prior to January 1, 1943. The S_1 Corporation and the S_2 Corporation each came into existence on January 1, 1947. The P Corporation, the S_1 Corporation, and the S_2 Corporation each makes its income tax returns on the calendar year basis. On January 1, 1949, the P Corporation purchased for cash all the properties of the S_1 Corporation, and on January 5, 1949, it purchased for cash all the properties of the S_2 Corporation in Part IV transactions. The excess profits net income for each of the corporations for the base period taxable years is as follows:

EXCESS PROFITS NET INCOME

	For taxable year			
	1946	1947	1948	1949
P Corporation	−$18,000	$24,000	$42,000	$96,000
S_1 Corporation	0	18,000	30,000	--------
S_2 Corporation	0	12,000	18,000	--------

The excess profits net income for each month in such taxable years is as follows:

EXCESS PROFITS NET INCOME

	For each month in calendar year			
	1946	1947	1948	1949
P Corporation	−$1,500	$2,000	$3,500	$8,000
S_1 Corporation	0	1,500	2,500	--------
S_2 Corporation	0	1,000	1,500	--------
Total	−1,500	4,500	7,500	8,000

The excess profits net income of the P Corporation for each month as recomputed under section 474 (b) is the total excess profits net income for that month as shown in the above table, except that for each month in 1946 the recomputed excess profits net income is increased to zero. Since the 36 consecutive months in the years 1947, 1948, and 1949 have the highest aggregate excess profits net income, the average base period net income is such aggregate excess profits net income divided by 3. The average base period net income of the P Corporation recomputed under section 474 (b) is $80,000, determined as follows:

Aggregate for months in 1947 (12 × $4,500)	$54,000
Aggregate for months in 1948 (12 × $7,500)	90,000
Aggregate for months in 1949 (12 × $8,000)	96,000
Aggregate for 36 months	240,000
Aggregate divided by 3	80,000

This figure, subject to the percentage prescribed in section 435 (a), may be used by the P Corporation in computing its excess profits

credit based on income for the purpose of determining its excess profits tax for 1950 and future excess profits tax taxable years, provided all the conditions and limitations applicable under section 474, for example, the provisions of § 40.474–4, are met.

§ 40.474–3 *Successive transactions*—(a) *Part IV transaction following Part IV transaction.* In the case of a purchasing corporation which acquired properties of a selling corporation, if such selling corporation was itself a purchasing corporation in a previous Part IV transaction, the computations under section 474 for the purpose of computing the excess profits credit of the purchasing corporation in the later Part IV transaction shall be made with respect to the selling corporation without regard to the previous Part IV transaction. For example, the P corporation acquires the property of the S corporation in a Part IV transaction on January 1, 1950. The S corporation came into existence on January 1, 1949, and on the same date acquired all the properties of the Y corporation in a Part IV transaction. In computing the P corporation's excess profits credit with reference to section 474, any computation required with respect to the S corporation shall be made without regard to the excess profits net income (or deficit therein) of the Y corporation.

(b) *Part IV transaction following Part II transaction*—(1) *Component corporation not a purchasing corporation.* If a purchasing corporation acquired properties of a selling corporation in a Part IV transaction, if the selling corporation previously had acquired properties of a component corporation in a Part II transaction to which section 462 (b) (4) was not applicable, and if the excess profits net income of the purchasing corporation is recomputed with the application of the provisions of section 474 (b), the excess profits net income or deficit in excess profits net income of the selling corporation which increases or decreases the excess profits net income or deficit in excess profits net income of the purchasing corporation under section 474 (b), shall be determined with the application of the rules of Part II to such selling corporation with respect to the previous Part II transaction. See sections 461 through 465, and the regulations thereunder. This rule must be followed whether or not the selling corporation determined its average base period net income by recomputing its excess profits net income with the application of Part II.

(2) *Component corporation a purchasing corporation.* If a purchasing corporation acquired properties of a selling corporation in a Part IV transaction, and if the selling corporation previously had acquired properties of another corporation in a Part II transaction to which section 462 (b) (4) and the regulations thereunder are applicable, that is, a transaction in which the component corporation was a purchasing corporation in a Part IV transaction preceding the Part II transaction, the computations under section 474 for the purpose of computing the excess profits credit of the purchasing corporation in the later Part IV transaction shall be made with respect to the selling corporation in such transaction without regard to the previous Part IV transaction in which the component of the selling corporation had been a purchasing corporation. For example, the P corporation acquired the properties of the S corporation in a Part IV transaction on January 1, 1950. The S corporation previously had acquired all the properties of the C corporation in a Part II transaction on January 1, 1948. The C corporation came into existence on January 1, 1947, and on the same date purchased all the properties of the D corporation in a Part IV transaction. Any computations required under section 474 with respect to the P corporation's excess profits credit shall be made without regard to the excess profits net income (or deficit therein) of the D corporation.

(c) *A purchasing corporation as an acquiring corporation under Part II.* Both Part II and Part IV may be applied in the case of a corporation which is qualified both as a purchasing corporation and as an acquiring corporation and which computes its average base period net income under the general average method of section 435 (d).

(d) *Part II transaction following Part IV transaction.* For rules applicable in the case of a purchasing corporation which becomes a component corporation in a Part II transaction, see sections 462 (b) (4), 463 (c), and 464 (c) and the regulations thereunder.

§ 40.474–4 *Rules for the prevention of duplication*—(a) *In general.* (1) The purpose of the rules prescribed in this section is to prevent certain duplications in base period income in cases where after December 31, 1945, and before December 1, 1950, assets of a purchasing corporation are used to purchase properties of a selling corporation in a Part IV transaction. See section 474 (f) (4). In such cases the excess profits net income of the selling corporation, or portion thereof attributable to the properties acquired by the purchasing corporation, shall be excluded in determining the purchasing corporation's excess profits net income or deficit and its average base period net income with reference to the recomputations provided under Part IV. The adjustment required under this section shall be made in the cases described in this section and in all other cases in which a similar adjustment may be required to prevent duplication, in a manner consistent with principles underlying such described cases.

(2) Except to the extent that duplication of experience occurs, no adjustment is necessary under this section:

(i) Where stock of the purchasing corporation is issued directly to the selling corporation in exchange for properties of the selling corporation; or

(ii) Where properties of the selling corporation are acquired through a bona fide long-term increase in the capital structure of the purchasing corporation made in conjunction with and for the purpose of such acquisition. A bona fide long-term increase in the capital structure within the meaning of this subparagraph (whether an increase in equity capital or in borrowed capital as defined in section 439 (b)) shall be deemed to have occurred only to the extent that such increase is reflected in the capital structure throughout the period beginning with the time such increase is originally made and ending with the close of the taxable year of the purchasing corporation for which the tax is computed. For the purpose of determining whether such increase is reflected in the capital structure, proper adjustment shall be made to eliminate the effect of any loss occurring after the original increase is made, and, in the case of such determination as of any time during the taxable year, the determination shall be made without regard to the earnings and profits of such taxable year. If the increase in capital structure is the result of a Part II transaction, this subparagraph and § 40.474–2 (c) shall be applied in the light of the facts applicable both to the taxpayer and to the component corporation in such transaction. For the purpose of this subparagraph, an increase in the capital structure does not result from the conversion of inadmissible assets into admissible assets, or from the accumulation of earnings and profits prior to the beginning of the first taxable year which begins after the date of the acquisition.

(3) If properties of the selling corporation are acquired partly in the manner described in subparagraph (2) of this paragraph and partly in another manner, the adjustment required under this section shall be made to the extent the acquisition is made in such other manner. See paragraph (c) of this section. As to adjustment under regulations pursuant to section 474 (f) (4) of the net capital addition or reduction see § 40.474–5, and as to adjustment under regulations pursuant to section 474 (f) (4) of the base period capital addition, see § 40.474–6.

(b) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). The P Corporation and the S Corporation commenced business before January 1, 1946, and make their income tax returns on the calendar year basis. The P Corporation sold certain assets for cash and on July 1, 1950, it used such cash to purchase properties of the S Corporation in a Part IV transaction. In applying section 474 (b) in determining the average base period net income of the P Corporation, the rule provided in paragraph (a) (1) of this section requires the exclusion of the S Corporation's entire experience for the base period. The S Corporation's base period capital addition and its net capital addition or reduction for 1950 are also required to be excluded. See §§ 40.474–5 and 40.474–6.

Example (2). The S Corporation commenced business before January 1, 1946, and makes its income tax returns on the calendar year basis. The P Corporation was organized on December 10, 1948. On January 1, 1949, the P Corporation issued its stock for cash and on the same day used such cash to acquire all the properties of the S Corporation in a Part IV transaction. In determining the P Corporation's average base period net income under section 435 (d), based on a recomputation of its excess profits net income under section 474 (b), this section does not require the elimination of any part of the excess profits net income (or deficit) of the S Corporation. See paragraph (a) (2) of this section. Under regulations pursuant to section 474 (f) (1), however, the P Corporation will not be allowed any base period

capital addition for the cash paid in for its stock which was used in acquiring the properties of the S Corporation. See § 40.474–6.

Example (3). The P Corporation and the S Corporation both commenced business before January 1, 1946, and make their income tax returns on the calendar year basis. Before January 1, 1946, the P Corporation became the owner of one-half the stock of the S Corporation. On July 1, 1950, the S Corporation was liquidated and the P Corporation received all of the properties which had been used in the operation of one of two separate businesses operated by the S Corporation. The acquisition of such properties qualifies as a Part IV transaction. In applying section 474 (b) in determining the average base period net income of the P Corporation the rule provided in paragraph (a) (1) of this section requires the exclusion of the base period experience of the business operated by the S Corporation. The S Corporation's base period capital addition and its net capital addition or reduction for 1950 are also required to be excluded. See §§ 40.474–5 and 40.474–6.

(c) *Acquisition resulting in partial duplication.* If a purchasing corporation acquires properties of a selling corporation in a Part IV transaction, and only a part of the total consideration transferred by the purchasing corporation consists of stock issued directly by the purchasing corporation or of cash or other assets acquired by the purchasing corporation through a bona fide long-term increase in its capital structure, only that part of the selling corporation's base period experience before the acquisition which is not attributable to such stock so issued or to such cash or assets so acquired is to be excluded in computing the purchasing corporation's average base period net income under section 435 (d), based on a recomputation of excess profits net income under section 474 (b). The portion of the selling corporation's experience not to be excluded under this section with respect to any part of the base period (and of the additional period through March 31, 1950, for the purpose of the substitute period provided in section 435 (d)) prior to the day of the transaction is an amount which bears the same ratio to the whole of the selling corporation's experience for such part of such period (or, in the case of a transaction described in section 474 (a) (1) (B), the part of the selling corporation's experience properly attributable to the properties acquired by the purchasing corporation) as the sum of the fair market value of the stock of the purchasing corporation issued directly to the selling corporation, plus the fair market value of the other assets or cash acquired in the manner described in paragraph (a) (2) of this section, bears to the fair market value of the total consideration received by the selling corporation for such properties. The adjustment under this section in cases described in this paragraph may be illustrated by the following example:

Example. The P Corporation and the S Corporation each commenced business before January 1, 1946, and makes its income tax returns on the basis of the calendar year. On January 1, 1948, the P Corporation in a Part IV transaction purchased all the properties of the S Corporation for $100,000 in cash, of which $60,000 was derived by the P Corporation from the sale of certain assets and $40,000 was derived from the issuance and sale of new shares of its stock, such new stock constituting a bona fide long-term increase in its capital structure. For the purpose of computing the P Corporation's average base period net income under section 435 (d), based on a recomputation of the excess profits net income under section 474 (b), 60 percent of the S Corporation's monthly excess profits net income (or deficit) for 1946 and 1947 is to be excluded under this section.

§ 40.474–5 *Net capital addition or reduction under Part IV*—(a) *In general.* If the purchasing corporation acquires properties of a selling corporation in a Part IV transaction occurring in a taxable year ending after June 30, 1950, and if the purchasing corporation's average base period net income for the purpose of the excess profits credit for any taxable year ending after the date of the transaction is computed with the application of Part IV, the net capital addition or net capital reduction of the purchasing corporation for such taxable year shall be computed under section 435 (g) with the application of the following rules:

(1) If the Part IV transaction involved a transaction described in § 40.474–4 (a) (2) (i) or (ii), that is, a transaction in which there is no duplication of base period experience, the net capital addition or net capital reduction of the purchasing corporation shall be computed after making proper adjustment by decreasing the daily capital addition or increasing the daily capital reduction, as the case may be, for each day after the date of the Part IV transaction, to the extent necessary so that such amounts shall not reflect the transaction described in § 40.474–4 (a) (2). Thus, in the example in § 40.474–4 (c), if the Part IV transaction had occurred in a taxable year ending after June 30, 1950, the $40,000 derived from the issuance and sale of new shares of stock shall not be included in determining the amount paid in for stock under section 435 (g) (3) (A) for such taxable year, and the equity capital as of the beginning of any taxable year beginning after the Part IV transaction would be reduced by $40,000 for the purpose of applying section 435 (g) (3) (B) or section 435 (g) (4) (B) to such taxable year.

(2) Under principles corresponding to those set forth in section 462 (j) (1) and § 40.463–1 (e), the net capital addition or net capital reduction of the purchasing corporation is computed without regard to any capital changes of the selling corporation in any case subject to the provisions of § 40.474–4 unless the case involves a transaction described in § 40.474–4 (a) (2) (i) in which no gain or loss is recognized upon the exchange of the stock for the properties.

(3) If the Part IV transaction is subject to the provisions of § 40.474–4 by reason of an exchange described in § 40.474–4 (a) (2) (i) in which no gain or loss was recognized, the purchasing corporation shall compute its net capital addition or net capital reduction under the rules provided in § 40.463–1 as if the purchasing corporation were an acquiring corporation and the selling corporation were a component corporation. If in such case the selling corporation was a party to a Part II transaction occurring before the Part IV transaction, the rules set forth in § 40.463–2 shall also be applicable as if the purchasing corporation were an acquiring corporation and the selling corporation were a component corporation.

(b) *Example.* The rules prescribed by paragraph (a) of this section may be illustrated by the following example:

Example. The P Corporation and the S Corporation each makes its income tax returns on the basis of the calendar year. The P Corporation issued its stock on June 1, 1950, for $1,000,000 in cash, such new stock constituting a bona fide long-term increase in its capital structure, and on July 1, 1950, used such cash to acquire all the properties of the S Corporation in a Part IV transaction. The P Corporation computes its excess profits credit under Part IV. In computing the daily capital addition of the P Corporation for each day of 1950 after July 1, 1950, the $1,000,000 paid in for stock on June 1, 1950, shall be disregarded. In computing the equity capital of the P Corporation on January 1, 1951, for the purpose of comparing such amount with its equity capital on January 1, 1950, such equity capital on January 1, 1951, shall be reduced by $1,000,000, the amount paid in for the stock. The same adjustment (a decrease of $1,000,000) shall be made for such purpose in computing equity capital for the first day of each subsequent taxable year. Under principles corresponding to those set forth in § 40.463–1 (e), the net capital addition or net capital reduction of the P Corporation is computed without regard to any capital changes of the S Corporation.

§ 40.474–6 *Base period capital addition under Part IV*—(a) *In general.* If the purchasing corporation acquires properties of the selling corporation in a Part IV transaction occurring after the beginning of the second taxable year of the purchasing corporation preceding its first taxable year ending after June 30, 1950, and if the purchasing corporation's average base period net income for the purpose of the excess profits credit for any taxable year ending after the date of the transaction is computed with the application of Part IV, the base period capital addition of the purchasing corporation for such taxable year shall be computed under section 435 (f) with the application of the following rules:

(1) If the Part IV transaction involved a transaction described in § 40.474–4 (a) (2) (i) or (ii), that is, a transaction in which there is no duplication of base period experience, the base period capital addition of the purchasing corporation shall be computed after making proper adjustment by decreasing the yearly base period capital for any day specified in section 435 (f) after the date of the Part IV transaction to the extent necessary so that such amount shall not reflect the transaction described in § 40.474–4 (a) (2). Thus, in the example in § 40.474–4 (c), if the Part IV transaction had occurred after the beginning of the second taxable year of the purchasing corporation preceding its first taxable year ending after June 30, 1950, the yearly base period capital for each day specified in section 435 (f) after the date of the Part IV transaction shall be reduced by the $40,000 derived from the issuance and sale of new shares of stock.

(2) Under principles corresponding to those set forth in section 462 (j) (1) and § 40.464–1 (d), the base period capital addition of the purchasing corporation is computed without regard to the base period capital addition or yearly base period capital of the selling corporation in any case subject to the provisions of § 40.474–4, unless the case involves a transaction described in § 40.474–4 (a) (2) (i) in which no gain or loss is recognized upon the exchange of the stock for the properties.

(3) If the Part IV transaction is subject to the provisions of § 40.474–4 by reason of an exchange described in § 40.474–4 (a) (2) (i) in which no gain or loss was recognized, the purchasing corporation shall compute its yearly base period capital or base period capital addition with reference to the yearly base period capital or base period capital addition of the selling corporation under the rules provided in § 40.464–1 as if the purchasing corporation were an acquiring corporation and the selling corporation were a component corporation. If, in such case, the selling corporation was a party to a Part II transaction occurring before the Part IV transaction, the rules set forth in § 40.464–2 shall also be applicable as if the purchasing corporation were an acquiring corporation and the selling corporation were a component corporation.

(b) *Example.* The rules prescribed by paragraph (a) of this section may be illustrated by the following example:

Example. The P Corporation and the S Corporation each makes its income tax returns on the basis of the calendar year. The P Corporation issued its stock on June 1, 1949, for $1,000,000 in cash, such new stock constituting a bona fide long-term increase in its capital structure, and on July 1, 1949, used such cash to acquire all the properties of the S Corporation in a Part IV transaction. The P Corporation computes its excess profits credit under Part IV. In computing the base period capital addition of the P Corporation, its yearly base period capital for 1950 shall be reduced by $1,000,000, the amount paid in for the stock. Under principles corresponding to those set forth in § 40.464–1 (d), the base period capital addition of the P Corporation is computed without regard to any capital changes of the S Corporation.

[F. R. Doc. 52–12747; Filed, Dec. 1, 1952; 8:58 a. m.]

[26 CFR Part 316]

Excise Taxes on Sales by Manufacturer

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the Federal Register. The proposed regulations are to be issued under the authority contained in sections 3450 and 3791 of the Internal Revenue Code (53 Stat. 419, 467; 26 U. S. C. 3450, 3791).

[SEAL] John B. Dunlap,
Commissioner of Internal Revenue.

In order to conform Regulations 46 (26 CFR Part 316), relating to excise taxes on sales by the manufacturer under Chapter 29 of the Internal Revenue Code, to the Revenue Act of 1951 (Pub. Law 183, 82d Cong., 1st Sess.), approved October 20, 1951; to Public Law 251 (82d Cong., 1st Sess.), approved October 31, 1951; to Public Law 352 (82d Cong., 2d Sess.), approved May 21, 1952, and for other purposes, such regulations are hereby amended as follows:

Paragraph 1. Section 316.0, as amended by Treasury Decision 5854, approved September 13, 1951, is further amended by renumbering paragraph (b) (16) as (b) (17) and inserting the following after item (a) (15):

(16) Mechanical pencils, fountain and ball point pens, and mechanical lighters for cigarettes, cigars, and pipes; and

Par. 2. There is inserted immediately preceding § 316.2 the following:

Sec. 481. Automobiles, trucks, and parts or accessories (Revenue Act of 1951, approved October 20, 1951).

* * * * *

(g) *Effective date of subsection (f).* The amendment made by subsection (f) shall be effective with respect to articles purchased (by the user thereof) on or after the first day of the first month which begins more than ten days after the date of the enactment of this act.

* * * * *

Sec. 482. Navigation receivers sold to the United States (Revenue Act of 1951, approved October 20, 1951).

* * * * *

(f) *Effective dates.* The amendments made by subsections (a) and (b) shall take effect as provided in section 490. The amendments made by subsections (c) and (e) shall be applicable with respect to articles used in receivers sold to the United States on or after the first day of the first month which begins more than ten days after the date of the enactment of this act, and the amendment made by subsection (d) shall be applicable with respect to articles resold to the United States on or after such first day.

Sec. 488. Repeal of tax on electrical energy (Revenue Act of 1951, approved October 20, 1951).

* * * * *

(b) *Effective date.* (1) Except as provided in paragraph (2), the provisions of subsection (a) shall apply to electrical energy sold on or after the first day of the first month which begins more than ten days after the date of the enactment of this act.

(2) In the case of electrical energy sold which is billed to the customer for a period beginning before the effective date specified in paragraph (1) and ending on or after such date, the provisions of subsection (a) shall apply to that portion of the amount billed for the electrical energy sold during such period which the number of days in such period on and after such effective date bears to the total number of days in such period. This section shall not apply to electrical energy sold before such effective date for which a bill was rendered prior to such date.

Sec. 490. Effective date of part VIII (Revenue Act of 1951, approved October 20, 1951).

Except as otherwise expressly provided in this part, the amendments made by this part (secs. 481–489, inc.) shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this act.

Public Law 251 (82d Cong., 1st Sess.), Approved October 31, 1951

* * * * *

Sec. 4. Notwithstanding the provisions of section 490 of the Revenue Act of 1951, the effective date of so much of the amendment made by scetion 485 of such Act to section 3406 (a) (3) of the Internal Revenue Code as relates to electric heating pads shall be April 1, 1952.

Public Law 352 (82d Cong., 2d Sess.), Approved May 21, 1952

* * * * *

(b) The provisions of subsection (a) shall be effective as of November 1, 1951.

Par. 3. Section 316.2, as amended by Treasury Decision 5854 (26 CFR 316.2), is further amended by adding at the end thereof the following new paragraphs (g), (h), and (i):

(g) Part VIII of Title IV of the Revenue Act of 1951, effective November 1, 1951, provides for an increase in the rates of tax on chassis and bodies for trucks and other automobiles and parts or accessories therefor, except that beginning April 1, 1954, the rates revert to the rates in effect prior to November 1, 1951; the removal of the tax on certain sporting goods, the increase of the rate of tax on those sporting goods which remain subject to tax (other than certain fishing tackle), except that beginning April 1, 1954, the rate reverts to the rate in effect prior to November 1, 1951; an increase in the rate of tax on photographic film, the limiting of the tax to certain cameras, lenses, and film, and the reduction of the rate of tax on cameras and lenses; a change in the method of computing tax liability on sales of rebuilt automobile parts or accessories sold on an exchange basis; a refund or credit to manufacturers of automobile parts or accessories used or sold as repair or replacement parts for farm equipment; an exemption of certain types of communication, detection, or navigation receivers sold to the United States for its exclusive use, and components taxable under section 3404 (b) used or sold for use by the vendee as material in the manufacture or production of, or as a component part of, such receivers, together with complementary credit or refund provisions; tax-free sales of refrigerator components to vendees for resale to manufacturers of refrigeration equipment; the imposition of tax on mechanical pencils, fountain and ball point pens, and mechanical lighters for cigarettes, cigars, and pipes; the limiting of the appliances previously taxable under section 3406 (a) (3) to those of the household type, the addition of certain appliances to be taxed thereunder, and the limiting of the tax on electric direct motor driven fans and air circulators to those not of the industrial type; the removal of the tax on tires for toys, etc.; and the repeal of the tax on electrical energy.

(h) The provisions of Public Law 251, 82d Congress, approved October 31, 1951, remove the tax on electric heating pads effective April 1, 1952.

(i) The provisions of Public Law 352, 82d Congress, approved May 21, 1952, discontinue the tax on unperforated microfilm effective November 1, 1951.

PAR. 4. Immediately preceding § 316.7, there is inserted the following:

SEC. 482. NAVIGATION RECEIVERS SOLD TO THE UNITED STATES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(e) *Use by manufacturer of taxable parts.* Section 3444 (b) (relating to tax on use by manufacturer of taxable articles) is hereby amended to read as follows:

(b) This section shall not apply with respect to the use by the manufacturer, producer, or importer of articles described in section 3404 (b) if such articles are used by him as material in the manufacture or production of, or as a component part of, communication, detection, or navigation receivers of the type used in commercial, military, or marine installations if such receivers are to be sold to the United States for its exclusive use.

* * * * *

PAR. 5. Section 316.7, as amended by Treasury Decision 5854, is further amended as follows:

(A) By amending paragraph (a) to read as follows:

(a) If a person manufactures, produces, or imports an article covered by this part, with the exceptions noted in the paragraphs (b) and (c) of this section, and uses it for any purpose (other than as material in the manufacture or production of, or as a component part of, another article manufactured or produced by him which will be taxable or sold free of tax under the provisions of § 316.21, 316.22 or 316.61a), he shall be liable for tax with respect to the use of such article in the same manner as if it were sold by him.

(B) By inserting immediately after paragraph (b) a new paragraph (c) to read as follows and by redesignating the present paragraph (c) as paragraph (d):

(c) If a person manufactures, produces, or imports an article taxable under section 3404 (b) and uses it as material in the manufacture or production of, or as a component part of, a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations, he incurs no liability for tax with respect to such use of the article, provided he sells the receiver to the United States on or after November 1, 1951, for its exclusive use. (See § 316.61a.)

PAR. 6. Immediately preceding § 316.30, there is inserted the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(h) *Removal of tax on tires for toys, etc.* Paragraph (1) of section 3400 (a) (relating to tax on tires) is hereby amended by adding at the end thereof the following: "The tax imposed by this paragraph shall not apply to (A) tires which are not more than 20 inches in diameter and not more than one and three-fourths inches in cross-section, if such tires are of all-rubber construction (whether hollow center or solid) without fabric or metal reinforcement, or (B) tires of extruded tiring with internal wire fastening agent."

PAR. 7. Section 316.30, as amended by Treasury Decision 5348, approved March 15, 1944, is further amended as follows:

(A) By redesignating paragraphs (a), (b), (c), and (d) as subparagraphs (1), (2), (3), and (4), and changing the headnote to read as follows:

§ 316.30 *Scope of tax*—(a) *In general.* * * *

(B) By adding a new paragraph (b) at the end thereof to read as follows:

(b) *Certain tires not subject to tax.* On and after November 1, 1951, the tax does not apply to sales of (1) tires of all rubber construction (whether hollow center or solid) having no fabric or metal reinforcement if such tires are not more than 20 inches in diameter measured to the outside circumference and not more than one and three-fourths inches in cross-section measured on a horizontal plane, or (2) tires of any size or dimensions manufactured or produced from extruded tiring the ends of which are fastened or held together by means of a wire or other metallic material inserted into the extruded tiring.

PAR. 8. Immediately preceding § 316.50, there is inserted the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951; APPROVED OCTOBER 20, 1951).

(a) *Increase in tax on trucks.* Section 3403 (a) (tax on trucks, busses, etc.) is hereby amended by striking out "5 per centum" and inserting in lieu thereof "8 per centum, except that on and after April 1, 1954, the rate shall be 5 per centum".

(b) *Increase in tax on passenger automobiles and motorcycles.* Section 3403 (b) (tax on automobile chassis and bodies, etc.) is hereby amended to read as follows:

(b) *Other chassis and bodies, etc.* Other automobile chassis and bodies, chassis and bodies for trailers and semitrailers (other than house trailers) suitable for use in connection with passenger automobiles, and motorcycles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof), except tractors, 10 per centum, except that on and after April 1, 1954, the rate shall be 7 per centum. A sale of an automobile, trailer, or semitrailer shall, for the purposes of this subsection, be considered to be a sale of the chassis and of the body."

* * * * *

PAR. 9. Section 316.50, as amended by Treasury Decision 5099, approved November 28, 1941, is further amended by adding at the end thereof the following new paragraph (g):

(g) The tax does not apply to house trailers sold on and after November 1, 1951.

PAR. 10. Paragraph (b) of § 316.50a, as added by Treasury Decision 5099, is amended by adding at the end thereof the following sentence: "On and after November 1, 1951, the term shall not include house trailers."

PAR. 11. Section 316.51, as amended by Treasury Decision 5099, is further amended to read as follows:

§ 316.51 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

(a) Automobile truck chassis and bodies; highway tractors; automobile bus chassis and bodies; automobile truck and bus trailer and semitrailer chassis and bodies:

	Percent
October 1, 1941 to October 31, 1951, inclusive	5
November 1, 1951 to March 31, 1954, inclusive	8
On and after April 1, 1954	5

(b) Other automobile chassis and bodies; other automobile trailer and semitrailer chassis and bodies; motorcycles:

	Percent
October 1, 1941 to October 31, 1951, inclusive	7
November 1, 1951 to March 31, 1954, inclusive	10
On and after April 1, 1954	7

(c) House trailers:

	Percent
October 1, 1941 to October 31, 1951, inclusive	7
On and after November 1, 1951	None

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 12. The first two sentences of § 316.52, as amended by Treasury Decision 5099, are further amended to read as follows: "If the manufacturer of a truck body installs it on an 'other automobile chassis' manufactured by him, he must record and bill the sale of the body and chassis separately, and pay tax on the separate sale price of the body and chassis at the rate applicable to each such article. In case a passenger body is installed by the manufacturer thereof on an 'automobile truck chassis' manufactured by him, the transaction must be handled in a similar manner, and the tax paid at the rate applicable to each separate article."

PAR. 13. Immediately preceding § 316.54, there is inserted the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(e) *Technical amendment.* Section 3403 (e) (relating to certain credits against the tax imposed by section 3403) is hereby amended by striking out "in the case of an article taxable under subsection (a), 5 per centum, and in the case of an article taxable under subsection (b), 7 per centum" and inserting in lieu thereof "in the case of an article taxable under subsection (a) or subsection (b), the applicable percentage rate of tax provided in such subsections".

* * * * *

PAR. 14. Section 316.54, as amended by Treasury Decision 5854, is further amended as follows:

(A) The second sentence of paragraph (b) is amended to read as follows: "For example, if the sale price of an automobile is $2,000, the tax payable thereon $200, and the cost to the automobile manufacturer of the tires, inner tubes or automobile radio or television receiving set, sold on or in connection therewith is $80, the manufacturer will be permitted

to take a credit against the tax payable on the selling price of the automobile in an amount equal to 10 percent of $80, or $8."

(B) Paragraph (c) is amended by striking out "rate of 7 percent" and inserting in lieu thereof "applicable rate".

PAR. 15. Immediately preceding § 316.55, there is inserted the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(c) *Increase in tax on parts or accessories.* Section 3403 (c) (tax on parts or accessories for automobiles, etc.) is hereby amended by striking out "5 per centum" and inserting in lieu thereof "8 per centum, except that on and after April 1, 1954, the rate shall be 5 per centum".

(d) *Rebuilt parts or accessories.* Section 3403 (c) (tax on parts or accessories) is hereby amended by adding at the end thereof the following: "In determining the sale price of a rebuilt automobile part or accessory there shall be excluded from the price, in accordance with regulations prescribed by the Secretary, the value of a like part or accessory accepted in exchange."

* * * * *

PAR. 16. Immediately following § 316.55, there is inserted the following new section:

§ 316.55a *Rebuilt parts or accessories sold on an exchange basis.* On and after November 1, 1951, the tax on the sale of rebuilt automobile parts or accessories will be determined without taking into consideration the value of a like part or accessory accepted in exchange. The total amount charged in terms of cash in an exchange will be the basis for tax. For example, if a rebuilt automobile engine is sold for $100 on an exchange basis, the tax on the rebuilt engine will be computed on the basis of $100.

PAR. 17. Section 316.56, as amended by Treasury Decision 5099, is further amended to read as follows:

§ 316.56 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

AUTOMOBILE PARTS AND ACCESSORIES

	Percent
October 1, 1941 to October 31, 1951, inclusive	5
November 1, 1951 to March 31, 1954, inclusive	8
On and after April 1, 1954	5

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 18. Immediately preceding § 316.60, there is inserted the following:

SEC. 482. NAVIGATION RECEIVERS SOLD TO THE UNITED STATES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Exemption on sales to United States of certain radio sets.* Section 3404 (a) (relating to manufacturers' excise tax on radio receiving sets, etc.) is hereby amended by adding at the end thereof the following new sentence: "No tax shall be imposed under this subsection with respect to the sale to the United States for its exclusive use of a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations."

(b) *Tax-free sales of radio parts.* Section 3404 (b) (relating to manufacturers' excise tax on component parts of radio receiving sets, etc.) is hereby amended by adding at the end thereof the following new sentence: "Under regulations prescribed by the Secretary, no tax shall be imposed under this subsection with respect to the sale of any article for use by the vendee as material in the manufacture or production of, or as a component part of, communication, detection, or navigation receivers of the type used in commercial, military, or marine installations if such receivers are to be sold by the vendee to the United States for its exclusive use. If any article sold tax-free to such vendee is not so used by him, or being so used the receiver is not so sold, the vendee shall be considered as the manufacturer or producer of such article."

* * * * *

PAR. 19. Immediately following § 316.61, there is inserted the following new section:

§ 316.61a *Specific exemption of certain communication receivers, etc., and component parts*—(a) *Receivers.* (1) On and after November 1, 1951, the tax imposed under section 3404 (a) does not apply with respect to the sale to the United States for its exclusive use of a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations. To establish the right to exemption from the tax with respect to such sale, it is necessary that the manufacturer (i) have in his possession a copy of the Government purchase order, or of the prime contract awarded to him, under which the sale is made by him to the United States, or (ii) obtain from an authorized officer of the United States and retain in his possession a properly executed exemption certificate in the form prescribed by this section.

(2) If the articles covered by such purchase order, prime contract, or certificate are used otherwise than for the exclusive use of the United States, or if any of such articles are resold to employees or others, a responsible officer of the United States shall report such fact to the manufacturer. The tax applicable to the sale of such articles shall be included by the manufacturer in his return for the month during which such report is received by him.

(3) The certificate required by this section shall be in substantially the following form:

EXEMPTION CERTIFICATE

(To support tax-free sales to the United States of communication, detection, or navigation receivers under section 3404 (a) of the Internal Revenue Code, as amended by section 482 of the Revenue Act of 1951.)

_____, 19__.
(Date)

The undersigned hereby certifies that he is _____ of _____
(Title of officer) (United States

_____; that he is authorized
governmental unit)
to execute this certificate; and that the article or articles specified in the accompanying order, or on the reverse side hereof, are purchased from _____ for the
(Name of company)
exclusive use of the United States.

It is understood that the exemption from tax in the case of sales of articles under this exemption certificate to the United States is limited to the sale of articles purchased for its exclusive use, and it is agreed that if articles purchased tax free under this exemption certificate are used otherwise or are sold to employees or others, such fact will be reported to the manufacturer of the article or articles covered by this certificate. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than five years, or both, together with costs of prosecution.

_____
(Signature)

_____
(Title of officer)

(4) The articles covered by the exemption certificate must be fully identified as to type, quantity, and date of sale. If it is impracticable to furnish a separate exemption certificate for each order or contract, a certificate covering all orders between given dates (such period not to exceed six months) will be acceptable.

(5) Such certificates and proper records of invoices, orders, etc., relative to tax-free sales must be retained as provided in § 316.202.

(6) Where the evidence required to support a tax-free sale is obtained subsequent to the sale but prior to the time the manufacturer is required to file a return covering taxes due for the month during which the sale was made he shall include the tax on such sale in his return for that month, in the item "Total tax due", but may deduct an amount equivalent to the tax applicable to such sale and pay the net tax resulting, making appropriate explanation either on the face of the return or on a rider attached thereto. If such evidence is not so obtained, the manufacturer must include the tax on such sale in his return for the month in which the sale was made. However, if such evidence is later obtained a claim for refund of tax paid may be filed on Form 843, or a credit taken upon a subsequent return, but such action must be taken within the 4-year period of limitation prescribed by section 3313.

(7) No sale of a receiver may be made free of tax by the manufacturer to a dealer for resale to the United States. However, where a tax-paid receiver is sold by a dealer on or after November 1, 1951, to the United States for its exclusive use, the manufacturer may be allowed a credit or refund in the amount of tax paid on the article in accordance with the provisions of § 316.204.

(b) *Components for receivers.* (1) On and after November 1, 1951, no tax attaches under section 3404 (b) with respect to the sale by the manufacturer of any component named in such section for use by his vendee as material in the manufacture or production of, or as a component part of, a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations if such receiver is to be sold by such vendee to the United States for its exclusive use.

(2) To establish the right to exemption with respect to any component taxable under section 3404 (b), the manufacturer must obtain prior to or at the time of the sale, and retain in his possession, a certificate substantially in the

form prescribed below showing that the article is to be used by his vendee as material in the manufacture or production of, or as a component part of, a communication, detection, or navigation receiver of the type used in a commercial, military, or marine installation which the vendee will manufacture and sell to the United States for its exclusive use.

(3) If any person purchases a component free of tax under an exemption certificate for use in the manufacture of a receiver of the character described above to be sold to the United States for its exclusive use and if the component is not so used or, being so used, the receiver is not so sold, such person shall be considered the manufacturer of such component and shall be liable for tax on his use or resale of the component.

(4) The following form of exemption certificate will be acceptable for the purpose of this paragraph:

EXEMPTION CERTIFICATE

(To support tax-free sales of components under section 3404 (b) of the Internal Revenue Code, as amended by section 482 of the Revenue Act of 1951, to manufacturers of communication, detection, or navigation receivers for sale to the United States.)

_____, 19__.
(Date)

The undersigned hereby certifies that he is engaged in the manufacture of _____ (Communi-
_____ receivers
cation, detection, or navigation)
of the types used in _____
(Commercial, military,
_____ installations; that the articles
or marine)

specified in the accompanying order or contract will be used by him as material in the manufacture or production of, or as a component part of, such receivers; and that the receivers will be sold by him to the United States for its exclusive use.

It is understood that if any of the components purchased under this certificate are resold separately by the undersigned, or are used for any purposes other than that stated above, the undersigned will be considered as the manufacturer of the components so purchased and shall pay to the Government the tax on such resale or use unless his resale or use of the articles is exempt from tax under another provision of the law.

It is further understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than five years, or both, together with costs of prosecution.

_____
(Name)

_____
(Address)

(5) If it is impracticable to furnish a separate exemption certificate with each order or contract, a certificate covering all orders between given dates (such period not to exceed six months) will be acceptable.

(6) The certificates and proper records of orders, invoices, etc., shall be retained by the manufacturer of the components as provided in § 316.202.

(7) Where a certificate is not in the possession of the manufacturer at the time he sells the components, he is liable for the tax and is not entitled to a credit or refund on the ground that the receiver is to be sold by his vendee to the United States. The manufacturer of the receiver may, however, be allowed a credit or refund in the amount of the tax paid on the components in accordance with the provisions of § 316.204 after he sells the receiver to the United States.

(8) The exemption provided for under this paragraph extends only to the sale of taxable components known to be intended for use by the vendee as material in the manufacture or production of, or as a component part of, a communication, detection, or navigation receiver to be sold by such vendee to the United States for its exclusive use. The exemption does not extend to the sale of a taxable component to the manufacturer of another component even though the latter component is to be sold to a manufacturer for use as material in the manufacture or production of, or as a component part of, a communication, detection, or navigation receiver to be sold by such manufacturer to the United States for its exclusive use. The limitation of this exemption is illustrated by the following example: A holds a prime contract with the United States for the manufacture of a detection receiver; B subcontracts with A to supply A with the chassis to be used in the manufacture of such receiver; and C subcontracts with B to supply B with certain taxable tubes to be used in the manufacture of the chassis. A is not required to pay tax on his sale of the complete receiver to the United States. B, likewise, is not required to pay tax on his sale of the chassis to A. However, C is required to pay tax on his sale of tubes to B, since B is not the manufacturer of the detection receiver sold to the United States.

(9) For provisions with respect to tax-free sales for further manufacture under section 3442, see §§ 316.20 to 316.23, inclusive.

PAR. 20. Immediately preceding § 316.70, there is inserted the following:

SEC. 483. TAX-FREE SALES OF REFRIGERATOR COMPONENTS TO WHOLESALERS FOR RESALE TO MANUFACTURERS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Section 3405 (b) is hereby amended by inserting "(hereinafter referred to as 'refrigerating equipment')" before the period at the end of the first sentence and by striking out the second and third sentences and inserting in lieu thereof the following: "Under regulations prescribed by the Secretary, the tax under this subsection shall not apply in the case of sales of any such refrigerator components by the manufacturer, producer, or importer to (1) a manufacturer or producer of refrigerating equipment, or (2) a vendee for resale to a manufacturer or producer of refrigerating equipment if such components are in due course so resold. If any such refrigerator components are resold by the manufacturer or producer to whom sold or resold otherwise than on or in connection with, or with the sale of, complete refrigerating equipment manufactured or produced by him, then for the purposes of this section such manufacturer or producer shall be considered the manufacturer or producer of the refrigerator components so resold by him."

PAR. 21. Section 316.70, as amended by Treasury Decision 5854, is further amended by striking out the first sentence of paragraph (c) (4) and inserting in lieu thereof a new sentence to read as follows: "A manufacturer of household type refrigerators, other type refrigerators, household type units for the quick freezing or frozen storage of foods, other quick-freeze units, or refrigerating or cooling apparatus may purchase tax free for use as components in the manufacture of such articles any of the refrigerating and freezing apparatus specified in section 3405 (b)."

PAR. 22. Section 316.71, as amended by Treasury Decision 5854, is further amended by striking out the last sentence of paragraph (b) and inserting in lieu thereof a new sentence to read as follows: "Sales of such refrigerating apparatus as component parts of complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units are not subject to tax."

PAR. 23. Section 316.72, as added by Treasury Decision 5854, is amended as follows:

(A) By redesignating paragraphs (e), (f), (g), (h), (i) and (j) as paragraphs (i), (j), (k), (l) and (m) and by striking paragraph (d) and inserting in lieu thereof the following:

(d) Prior to November 1, 1951, this exemption from tax does not apply in the case of a sale of refrigerator components by the manufacturer thereof to a wholesaler, jobber, dealer, etc., where such wholesaler, jobber, dealer, etc., does not qualify as a manufacturer of complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units.

(e) On and after November 1, 1951, a manufacturer of taxable refrigerator components, as specified in section 3405 (b), may sell such refrigerator components tax free to a wholesaler, jobber, dealer, or any other person buying for resale to a manufacturer of complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units. Tax-free sales of such refrigerator components may not be made to repairmen or servicemen for repair or service work.

(f) In order to make a tax-free sale it is necessary that the manufacturer of the components (1) obtain from the wholesaler, etc., prior to or at the time of the sale and retain in his possession, a statement showing that the component is being purchased for resale to a manufacturer of complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units, and (2) obtain proof that the component has been so resold. Such proof shall be either an exemption certificate in the form set forth below properly executed by the manufacturer purchasing the component for further manufacture, or a statement by the wholesaler, etc., that he has obtained from his vendee, and has in his possession, available for inspection by internal revenue officers, such a certificate. The statement referred to in subparagraph (1) of this paragraph suspends the liability of the manufacturer of the component for payment of the tax for a period of two months from the date of his sale. If within such period the manufacturer of the component has not obtained proof of the tax-free character of the resale by the wholesaler, etc., then the temporary suspension of liability for the payment of the tax ceases, and the

manufacturer of the component shall include the tax on the sale of such component in his return for the month in which such 2-month period expires. If such proof subsequently becomes available, a credit for the tax paid may be taken upon a subsequent return or a claim for refund may be filed at any time within the 4-year period of limitation prescribed by section 3313.

(g) Where the manufacturer of the taxable component elects to pay the tax instead of making a tax-free sale, he may take a credit or file a refund claim for the tax so paid when he has in his possession the evidence set forth above with respect to tax-free sales.

(h) The foregoing exemption and credit or refund provisions apply only where there is not more than one intervening sale between the manufacturer of the component and the manufacturer of the complete refrigerator, refrigerating or cooling apparatus, or quick-freeze unit.

(B) By striking out the words "refrigerators, refrigerating and cooling apparatus, or quick-freeze units" in the first paragraph of the "Exemption Certificate" and inserting in lieu thereof the words "complete refrigerators, refrigerating or cooling apparatus, or quick-freeze units".

PAR. 24. Immediately preceding § 316.90, there is inserted the following:

SEC. 484. SPORTING GOODS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Section 3406 (a) (1) (relating to manufacturers' excise tax on sporting goods) is hereby amended to read as follows:

(1) *Sporting goods.* Badminton nets; badminton rackets (measuring 22 inches over all or more in length); badminton racket frames (measuring 22 inches over all or more in length); badminton racket string; badminton shuttlecocks; badminton standards; billiard and pool tables (measuring 45 inches over all or more in length); billiard and pool balls and cues for such tables; bowling balls and pins; clay pigeons and traps for throwing clay pigeons; cricket balls; cricket bats; croquet balls and mallets; curling stones; deck tennis rings, nets, and posts; golf bags (measuring 26 inches or more in length); golf balls; golf clubs (measuring 30 inches or more in length); lacrosse balls; lacrosse sticks; polo balls; polo mallets; skis; ski poles; snowshoes; snow toboggans and sleds (measuring more than 60 inches over all in length); squash balls; squash rackets (measuring 22 inches over all or more in length); squash racket frames (measuring 22 inches over all or more in length); squash racket string; table tennis tables, balls, nets, and paddles; tennis balls; tennis nets; tennis rackets (measuring 22 inches over all or more in length); tennis racket frames (measuring 22 inches over all or more in length); tennis racket string; 15 per centum, except that on and after April 1, 1954, the rate shall be 10 per centum; fishing rods, creels, reels, and artificial lures, baits, and flies; 10 per centum.

PAR. 25. Section 316.90, as added by Treasury Decision 5099, is amended as follows:

(A) By redesignating present paragraphs (a) through (d) as subparagraphs (1) through (4) and by changing the headnote to read as follows:

§ 316.90 *Scope of tax*—(a) *For the period October 1, 1941, to October 31, 1951, inclusive.* * * *

(B) By adding at the end thereof the following:

(b) *For the period beginning November 1, 1951.* On and after November 1, 1951, the tax does not apply with respect to sales of the following:

Baseball paraphernalia and equipment.
Basketball paraphernalia and equipment.
Football paraphernalia and equipment.
Hockey paraphernalia and equipment.
Indoor baseball paraphernalia and equipment.
Soccer paraphernalia and equipment.
Softball paraphernalia and equipment.
Volley ball paraphernalia and equipment.
Water polo paraphernalia and equipment.
Wrestling paraphernalia and equipment.
Boxing apparatus and equipment.
Fencing apparatus and equipment.
Track apparatus and equipment.
Gymnasium apparatus and equipment.
Push balls.
Mass balls.
Skates.
Snow toboggans and sleds (measuring sixty inches or less overall in length).

All articles subject to tax during the period October 1, 1941 to October 31, 1951, inclusive, and not listed above continue to be subject to tax.

PAR. 26. Section 316.91, as added by Treasury Decision 5099, is amended to read as follows:

§ 316.91 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

(a) All articles, except fishing tackle:

	Percent
October 1, 1941 to October 31, 1951, inclusive	10
November 1, 1951 to March 31, 1954, inclusive	15
On and after April 1, 1954	10

(b) Fishing tackle:

	Percent
All periods	10

In each case the taxable price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 27. Immediately preceding §316.110, there is inserted the following:

SEC. 485. ELECTRIC, GAS, AND OIL APPLIANCES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Section 3406 (a) (3) (relating to manufacturers' excise tax on electric, gas, and oil appliances) is hereby amended (1) by striking out "Electric direct motor-driven fans and air circulators"; and inserting in lieu thereof "Electric direct motor-driven fans and air circulators (not of the industrial type); and the following appliances of the household type:", (2) by striking out "electric heating pads and blankets" and inserting in lieu thereof "electric blankets, sheets, and spreads," and (3) by inserting after "juicers;" the following: "electric belt-driven fans; electric exhaust blowers; electric or gas clothes driers; electric door chimes; electric dehumidifiers; electric dishwashers; electric floor polishers and waxers; electric food choppers and grinders; electric hedge trimmers; electric ice cream freezers; electric mangles; electric motion or still picture projectors; electric pants pressers; electric garbage disposal units; and power lawn mowers;".

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* * * * *

SEC. 4. Notwithstanding the provisions of section 490 of the Revenue Act of 1951, the effective date of so much of the amendment made by section 485 of such Act to section 3406 (a) (3) of the Internal Revenue Code as relates to electric heating pads shall be April 1, 1952.

PAR. 28. Section 316.110, as amended by Treasury Decision 5348, is further amended as follows:

(A) By redesignating present paragraphs (a) through (d) as subparagraphs (1) through (4) and by changing the heading to read as follows:

§ 316.110 *Scope of tax*—(a) *For the period October 1, 1941, to October 31, 1951, inclusive.* * * *

(B) By adding the following new paragraphs at the end thereof:

(b) *For the period beginning November 1, 1951*—(1) *Electric direct motor-driven fans and air circulators.* On and after November 1, 1951, section 3406 (a) (3) imposes a tax on sales by the manufacturer of all electric direct motor-driven fans and air circulators except those of the industrial type. The following list is illustrative of the direct motor-driven fans and air circulators which are of the non-industrial type and therefore subject to tax:

Ceiling fans of the wood blade type (regardless of whether the blades are made of wood or other material).
Hassock type radial discharge fans and air circulators and modifications thereof, regardless of blade diameter.
Exhaust or intake ventilating fans of the household type for use in window or attic.
Exhaust or intake ventilating fans of the household kitchen type (built-in wall and built-in ceiling types).
Desk, bracket, and pedestal type fans and air circulators with blade diameter of 16 inches and less.

(2) *Household type electric, gas, or oil appliances.* On and after November 1, 1951, section 3406 (a) (3) imposes a tax on sales by the manufacturer of the appliances listed below if they are of the household type. The term "household type" is general in application so that any article falling within the category of those named in the following list is considered of the "household type" and subject to tax if it has an actual practical commercial fitness for household use or if it is specifically designed and constructed for use in the household:

Electric, gas, or oil water heaters.
Electric flat irons.
Electric air heaters (not including furnaces).
Electric immersion heaters.
Electric blankets, sheets, and spreads.
Electric heating pads (only if sold prior to April 1, 1952).
Electric, gas, or oil appliances of the type used for cooking, warming, or keeping warm food or beverages for consumption on the premises.
Electric mixers, whippers, and juicers.
Electric belt-driven fans.
Electric exhaust blowers.
Electric or gas clothes driers.
Electric door chimes.
Electric dehumidifiers.
Electric dishwashers.
Electric floor polishers and waxers.
Electric food choppers and grinders.
Electric hedge trimmers.
Electric ice cream freezers.
Electric mangles.
Electric motion or still picture projectors.

Electric pants pressers.
Electric garbage disposal units.
Power lawn mowers.

(3) *Parts or accessories.* The tax also attaches to any parts or accessories sold on or in connection with, or with the sale of, any taxable direct motor-driven fan or air circulator or any household type appliance.

PAR. 29. Immediately preceding § 316.120, there is inserted the following:

SEC. 486. ADJUSTMENTS OF TAX RATES ON PHOTOGRAPHIC APPARATUS AND FILM; REPEAL OF TAX ON CERTAIN ITEMS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Items subject to tax.* Section 3406 (a) (4) (relating to the manufacturers' excise tax on photographic apparatus) is hereby amended to read as follows:

(4) *Photographic apparatus.* Cameras and camera lenses, and unexposed photographic film in rolls (including motion picture film), 20 per centum. The tax imposed under this paragraph shall not apply to X-ray cameras, to cameras weighing more than four pounds exclusive of lens and accessories, to still camera lenses having a focal length of more than one hundred and twenty millimeters, to motion picture camera lenses having a focal length of more than thirty millimeters, to X-ray film, to film more than one hundred and fifty feet in length, or to film more than twenty-five feet in length and more than thirty millimeters in width. Any person who acquires unexposed photographic film not subject to tax under this paragraph and sells such unexposed film in form and dimensions subject to tax hereunder (or in connection with a sale cuts such film to form and dimensions subject to tax hereunder) shall for the purposes of this subsection be considered the manufacturer of the film so sold by him.

(b) *Floor stocks refunds on bulbs.* (1) With respect to any photo-flash or other bulb upon which the tax imposed under section 3406 (a) (4) of the Internal Revenue Code has been paid, and which on the effective date specified in section 489 of this Act is held by any person and intended for sale, or for use in the manufacture or production of any article intended for sale, there shall be credited or refunded to the manufacturer or producer of such bulb (without interest), subject to such regulations as may be prescribed by the Secretary, and amount equal to so much of the tax so paid as has been paid by such manufacturer or producer to such person as reimbursement for the elimination on such effective date of the tax on such bulb, if claim for such credit or refund is filed with the Secretary prior to the expiration of three months after such effective date. No credit or refund shall be allowable under this paragraph for any bulb held by any person for sale which was purchased by such person as a component part of any other article.

(2) No person shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which he has made the reimbursements described in paragraph (1) as the regulations under paragraph (1) shall prescribe.

(3) All provisions of law, including penalties, applicable with respect to the tax imposed under section 3406 (a) (4) of the Internal Revenue Code shall, insofar as applicable and not inconsistent with this subsection, be applicable in respect of the credits and refunds provided for in this subsection to the same extent as if such credits or refunds constituted credits or refunds of such taxes.

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* * * * * *

That (a) the second sentence of section 3406 (a) (4) of the Internal Revenue Code as amended by section 486 (a) of the Revenue Act of 1951 is further amended by adding after the comma following the words "to X-ray film" the following: "to unperforated microfilm,".

* * * * * *

PAR. 30. Section 316.120, as amended by Treasury Decision 5189, approved November 30, 1942, is further amended as follows:

(A) By redesignating present paragraphs (a) through (h) as subparagraphs (1) through (8) and by changing the heading to read as follows:

§ 316.120 *Scope of tax*—(a) *For the period October 1, 1941, to October 31, 1951, inclusive.* * * *

(B) By adding at the end thereof the following:

(b) *For the period beginning November 1, 1951.* (1) On and after November 1, 1951, section 3406 (a) (4) imposes a tax on sales by the manufacturer of the following articles:

Cameras (other than X-ray cameras) weighing four pounds or less exclusive of lens and accessories.

Still camera lenses having a focal length of one hundred and twenty millimeters or less.

Motion picture camera lenses having a focal length of thirty millimeters or less.

Unexposed photographic film (other than X-ray film and unperforated microfilm) in rolls (1) one hundred and fifty feet or less in length and thirty millimeters or less in width and (2) twenty-five feet or less in length and more than thirty millimeters in width.

Parts or accessories of any of the above articles sold on or in connection therewith, or with the sale therof.

(2) Beginning November 1, 1951, any person who acquires unexposed photographic film in dimensions not subject to tax and cuts such film to dimensions which are subject to tax shall be considered the manufacturer of such film and shall be liable for tax on his sales of such cut film.

PAR. 31. Section 316.122, as amended by Treasury Decision 5189, is further amended to read as follows:

§ 316.122 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

(a) Cameras and lenses:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	25
On and after November 1, 1951	20

(b) Unexposed photographic film in rolls (except X-ray film):

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	15
On and after November 1, 1951	20

(c) Unperforated microfilm:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	15
On and after November 1, 1951	None

(d) Unexposed photographic plates and sensitized paper:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	15
On and after November 1, 1951	None

(e) Photographic apparatus and equipment:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	25
On and after November 1, 1951	None

(f) Apparatus and equipment designed for use in taking, developing, etc., pictures:

	Percent
October 1, 1941 to October 31, 1942, inclusive	10
November 1, 1942 to October 31, 1951, inclusive	25
On and after November 1, 1951	None

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 32. Immediately following § 316.194, there is inserted the following:

SEC. 488. REPEAL OF TAX ON ELECTRICAL ENERGY (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Repeal of tax.* Section 3411 (relating to tax on electrical energy for domestic or commercial consumption), and sections 3441 (d) and 3447 (c) (related provisions), are hereby repealed.

(b) *Effective date.* (1) Except as provided in paragraph (2), the provisions of subsection (a) shall apply to electrical energy sold on or after the first day of the first month which begins more than ten days after the date of the enactment of this act.

(2) In the case of electrical energy sold which is billed to the customer for a period beginning before the effective date specified in paragraph (1) and ending on or after such date, the provisions of subsection (a) shall apply to that portion of the amount billed for the electrical energy sold during such period which the number of days in such period on and after such effective date bears to the total number of days in such period. This section shall not apply to electrical energy sold before such effective date for which a bill was rendered prior to such date.

§ 316.195 *Termination of tax.* Effective November 1, 1951, no tax shall apply to electrical energy sold for domestic or commercial consumption on or after that date. Whether or not the tax is applicable is dependent upon the period during which the electrical energy was sold and not upon the date the bill for such electrical energy was rendered to the purchaser. Therefore, the tax will apply to electrical energy sold before November 1, 1951, regardless of whether the bill was rendered to the purchaser before or after that date. Where electrical energy is sold and billed to the customer for a period beginning prior to November 1, 1951, and ending on or after

such date, the tax will not apply to that portion of the total amount billed which the number of days in such period on and after November 1, 1951, bears to the total number of days in the entire period. For example, if a bill is rendered for the period October 15, 1951, to November 14, 1951 (both dates inclusive), a total of 31 days, no tax will apply to fourteen thirty-firsts of the total amount billed.

PAR. 33. The heading "Subpart U—Miscellaneous Provisions", as designated by Treasury Decision 5099, is redesignated as "Subpart V—Miscellaneous Provisions", and immediately following Subpart T a new Subpart U is added to read as follows:

SUBPART U—MECHANICAL PENCILS, FOUNTAIN AND BALL POINT PENS, AND MECHANICAL LIGHTERS FOR CIGARETTES, CIGARS, AND PIPES

SEC. 487. IMPOSITION OF TAX ON MECHANICAL PENCILS, FOUNTAIN AND BALL POINT PENS, AND MECHANICAL LIGHTERS FOR CIGARETTES, CIGARS, AND PIPES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Chapter 29 (relating to manufacturers' excise and import taxes) is hereby amended by adding after section 3407 the following new section:

SEC. 3408. TAX ON MECHANICAL PENCILS, FOUNTAIN AND BALL POINT PENS, AND MECHANICAL LIGHTERS FOR CIGARETTES, CIGARS, AND PIPES.

(a) *Imposition of tax.* There shall be imposed on the following articles, sold by the manufacturer, producer, or importer, a tax equal to 15 per centum of the price for which so sold: Mechanical pencils, fountain pens, and ball point pens; mechanical lighters for cigarettes, cigars, and pipes.

(b) *Exemption if article taxable as jewelry.* No tax shall be imposed under this section on any article taxable under section 2400 (relating to jewelry tax). If any article, on the sale of which tax has been paid under this section, is further manufactured or processed resulting in an article taxable under section 2400, the person who sells such article at retail shall, in the computation of the retailers' excise tax due on such sale, be entitled to a credit or refund in an amount equal to the tax paid under this section.

§ 316.196 *Scope of tax.* The tax imposed by section 3408 attaches to the sale by the manufacturer on and after November 1, 1951, of mechanical pencils, fountain pens, ball point pens, and mechanical lighters for cigarettes, cigars, and pipes.

§ 316.197 *Use of terms.* (a) The term "mechanical pencil" includes any writing instrument containing a movable marking or writing substance in which the desired length of the marking or writing substance is controlled by a locking, propelling or repelling device.

(b) The term "fountain pen" includes a writing instrument of the type equipped with a reservoir for holding ink or other writing fluid which feeds the point when the instrument is in use.

(c) The term "ball point pen" includes a writing instrument of the type having an inking reservoir or magazine which feeds a ball writing part when the instrument is in use.

(d) The term "mechanical lighters for cigarettes, cigars, and pipes" includes any articles designed to produce by means of any type of mechanical action a flame or other heat generating source for the lighting of cigarettes, cigars, and pipes.

§ 316.198 *Exemption if articles taxable as jewelry.* (a) The tax imposed by section 3408 does not apply to the sale by the manufacturer of any article named therein if such article is, when sold, subject to the tax imposed by section 2400 (relating to jewelry, etc.). For further details, see § 320.33 (Regulations 51).

(b) Where subsequent to the sale by the manufacturer and prior to the sale at retail, any article named in section 3408 is further manufactured or processed in any manner so that it becomes subject to the tax imposed under section 2400, the person who sells such article at retail shall, in computing the retailers' excise tax due on such sale, be entitled to a credit or refund in an amount equal to the tax paid under section 3408. However, such credit or refund is not allowable to the manufacturer who originally paid tax under section 3408, but is allowable only to the person who sells the article at retail.

§ 316.199 *Rate of tax.* The tax is payable by the manufacturer at the rate of 15 per cent of the sale price as determined under §§ 316.8 to 316.15, inclusive.

PAR. 34. Immediately preceding § 316.204, there is inserted the following:

SEC. 481. AUTOMOBILES, TRUCKS, AND PARTS OR ACCESSORIES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(f) *Parts or accessories for farm equipment.* Section 3443 (a) (3) (A) is hereby amended by striking out the period at the end of clause (v) and inserting in lieu thereof a semicolon, and by inserting after clause (v) the following:

(vi) in the case of articles taxable under section 3403 (c) (other than spark plugs, storage batteries, leaf springs, coils, timers, and tire chains), used or resold for use as repair or replacement parts or accessories for farm equipment (other than equipment taxable under subsection (a) or (b) of section 3403);.

* * * * *

SEC. 482. NAVIGATION RECEIVERS SOLD TO THE UNITED STATES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(c) *Refund in case of use of parts.* Section 3443 (a) (1) (relating to credits and refunds) is hereby amended to read as follows:

(1) To a manufacturer or producer, in the amount of any tax under this chapter which has been paid with respect to the sale of—

(A) Any article (other than a tire, inner tube, or automobile radio or television receiving set taxable under section 3404) purchased by him and used by him as material in the manufacture or production of, or as a component part of, an article with respect to which tax under this chapter has been paid, or which has been sold free of tax by virtue of section 3442, relating to tax-free sales;

(B) any article described in section 3404 (b) purchased by him and used by him as material in the manufacture or production of, or as a component part of, communication, detection, or navigation receivers of the type used in commercial, military, or marine installations if such receivers have been sold by him to the United States for its exclusive use.

(d) *Refund in case of resale to United States.* Section 3443 (a) (3) (A) is hereby amended by adding at the end thereof the following:

(vii) in the case of a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations resold to the United States for its exclusive use.

* * * * *

PAR. 35. Section 316.204, as amended by Treasury Decision 5880, approved February 11, 1952, is further amended as follows:

(A) By inserting "(1)" immediately after the words "with respect to the sale of" in the first sentence of the paragraph (a) and by changing the period at the end thereof to a comma and adding the following: "Or (2) any article described in section 316.61 purchased and used by such manufacturer as a component part of a receiver of the type described in § 316.61a which is sold by him on or after November 1, 1951, directly to the United States for its exclusive use."

(B) By adding at the end thereof the following new paragraphs:

(m) By virtue of the provisions of section 3443 (a) (3) (A) (vii) of the Code, as added by section 482 (d) of the Revenue Act of 1951, a manufacturer of a communication, detection, or navigation receiver of the type used in commercial, military, or marine installations may be allowed a refund or may take credit on a subsequent return in the amount of any tax paid by him on the sale of such a receiver, if on or after November 1, 1951, such receiver is sold by any person to the United States for its exclusive use. Refund or credit will be allowed in such cases only upon the submission of the evidence required by the preceding paragraphs relating to transactions within the scope of section 3443 (a) (3) (A).

(n) Under the provisions of section 3443 (a) (3) (A), prior to November 1, 1951, no credit or refund was allowable with respect to tax paid on automobile parts or accessories sold for use or for resale for use as repair or replacement parts or accessories for farm equipment even though it was known at the time of the sale that the articles would be so used. On and after November 1, 1951, a manufacturer may be allowed a refund or may take credit against the tax shown to be due upon any subsequent monthly return, in the amount of tax paid by him with respect to the sale of any article taxable under section 3403 (c) (other than spark plugs, storage batteries, leaf springs, coils, timers, and tire chains) used, or resold for use, on or after November 1, 1951, as a repair or replacement part or as an accessory for farm equipment (other than equipment taxable under subsection (a) or (b) of section 3403), provided he can establish the date the tax on his sale of such article was paid to the United States and the amount of such tax, and he has in his possession a certificate from the ultimate vendor in the form prescribed in the following paragraph. Where the certificate is obtained prior to the time the manufacturer is required to file a return covering taxes due for the month in which the sale was made, he should include the tax on such sale in his return for that month, in the item "Total tax

due", but he may deduct an amount equivalent to the tax applicable to such sale and pay the net tax resulting, making appropriate explanation on a rider attached to the return. If the certificate is not so obtained, the manufacturer must include the tax on such sale in his return for the month in which the sale was made, and when the certificate is later obtained he may file a claim for refund on Form 843, or take a credit upon any subsequent return, but such action must be taken within the four-year period of limitation prescribed by section 3313.

(o) The following is the form of certificate which will be acceptable for the purposes of paragraph (n) of this section.

CREDIT OR REFUND CERTIFICATE

(For use by ultimate vendors (retailers, repairmen, etc.) to support a credit or claim for refund under section 3443 (a) (3) (A) (vi) of the Internal Revenue Code.)

The undersigned vendor hereby certifies that the automobile parts or accessories (other than spark plugs, storage batteries, leaf springs, coils, timers, and tire chains) specified below or on the reverse side hereof were purchased tax paid and used, or resold for use by his vendee, as repair or replacement parts or accessories for farm equipment (other than automobile truck chassis and bodies, etc., taxable under section 3403 (a) or (b) of the Internal Revenue Code); that the purpose for which such parts or accessories were used or resold comes within the credit or refund provision of section 3443 (a) (3) (A) (vi) of the Internal Revenue Code, as added by section 481 (f) of the Revenue Act of 1951; that he consents to the allowance of a credit or refund to

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(Name and address of manufacturer)

in the amount of the tax paid by such manufacturer on the sale of the articles; and that he has not heretofore given his consent to the allowance of this credit or refund to any other manufacturer and has not made application for a credit or refund of this Federal tax from any other source.

It is understood by the undersigned that the fraudulent use of this certificate will subject him to a fine of not more than $10,000, or to imprisonment of not more than five years, or both, together with the cost of prosecution.

(Name)

(Address)

(Date)

Suppliers' invoice No.	*Article and quantity*
Date of use or resale	*Name and address of customer*

If it is impracticable to furnish a separate certificate for each use or resale, a certificate covering each use or resale between given dates (such period not to exceed 6 months) will be acceptable. Such certificate and supporting records shall be retained by the manufacturer as provided by § 316.202.

[F. R. Doc. 52–12746; Filed, Dec. 1, 1952; 8:58 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

MISSOURI RIVER BASIN PROJECT, SOUTH DAKOTA

FIRST FORM RECLAMATION WITHDRAWAL

SEPTEMBER 15, 1952.

Pursuant to the authority delegated by Departmental Order No.. 2515 of April 7, 1949, I hereby withdraw the following-described lands from public entry, under the first form of withdrawal, as provided by section 3 of the act of June 17, 1902, (32 Stat. 388):

BLACK HILLS PRINCIPAL MERIDIAN, SOUTH DAKOTA

T. 1 N., R. 4 E.,
Sec. 1, Lot 2.
T. 2 N., R. 4 E.,
Sec. 36, NE¼SE¼, S½SE¼.
T. 1 N., R. 5 E.,
Sec. 3, SE¼SW¼;
Sec. 4, S½NW¼, E½SW¼;
Sec. 5, Lot 4, S½N½;
Sec. 6, Lots 1 and 2;
Sec. 10, SW¼NE¼, NE¼NW¼, N½SE¼;
Sec. 11, W½NE¼.
T. 2 N., R. 5 E.,
Sec. 31, Lots 5, 6, 13 to 19, incl., NW¼NE¼ SE¼;
Sec. 32, E½W½SW¼, E½SW¼, SE¼SE¼;
Sec. 33, SW¼SW¼;
Sec. 34, W½SW¼.

The above areas aggregate 1,357.77 acres.

G. W. LINEWEAVER,
Assistant Commissioner.

I concur. The records of the Bureau of Land Management will be noted accordingly.

WILLIAM PINCUS,
Assistant Director,
Bureau of Land Management.

NOVEMBER 14, 1952.

Notice for Filing Objections to Order Withdrawing Public Lands for the Missouri River Basin Project, South Dakota

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of the above order withdrawing certain public lands in the State of South Dakota, for use in connection with the proposed Pactola Dam and Reservoir, Rapid Valley Unit, Missouri River Basin Project may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C.

In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

G. W. LINEWEAVER,
Assistant Commissioner.

[F. R. Doc. 52–12714; Filed, Dec. 1, 1952; 8:52 a. m.]

RIVERTON PROJECT, WYOMING

PUBLIC NOTICE OF ANNUAL RENTAL CHARGES

NOVEMBER 13, 1952.

1. *Water rental.* Irrigation water will be furnished upon a rental basis during the irrigation seasons of 1953 and 1954, and thereafter until further notice to the irrigable lands described in Public Notice No. 28 for the North Pavillion area, and Public Notice No. 30 for the North Portal area, Riverton Project, Wyoming.

2. *Charges and terms of payment.* A minimum water rental charge shall be payable for irrigable lands described in Public Notices Nos. 28 and 30, whether water is used or not. Such minimum charge need not be paid in any year for any acreage which the Riverton Project Superintendent certifies to be temporarily non-irrigable during such year due to seepage, land subsidence, shallow or impermeable soils, or excessive amounts of salts. Payment of the minimum water rental charge will entitle the water user to two acre-feet of water per irrigable acre. The minimum charge shall be payable in advance on January 1 of each year and no water will be furnished until such charge is paid in full. Charges for water furnished in excess of two acre-feet per irrigable acre shall be payable on January 1 for water furnished during the preceding year.

(a) The minimum water rental charge for lands in the North Pavillion Area described in Public Notice No. 28 shall be $2.00 per irrigable acre. Water in addition to two acre-feet per irrigable acre, if available, shall be furnished at the rate of $0.60 for the first additional half acre-foot per irrigable acre and at the rate of $0.75 for the second additional half acre-foot per irrigable acre. All quantities in excess of a total of three acre-feet per irrigable acre shall be furnished at the rate of $2.00 per acre-foot.

(b) The minimum water rental charge for lands in the North Portal area described in Public Notice No. 30 shall be $1.50 per irrigable acre during 1953; and, thereafter until further notice, such charge shall be $2.00 per irrigable acre. During 1953 water in addition to two

acre-feet, if available, shall be furnished at the rate of $0.50 for the first additional acre-foot per irrigable acre; and at the rate of $0.75 per acre-foot for each additional acre-foot thereafter. After 1953, and thereafter until further notice, water in addition to two acre-feet per irrigable acre, if available, shall be furnished at the rate of $0.60 for the first additional half acre-foot per irrigable acre and at the rate of $0.75 for the second additional half acre-foot per irrigable acre; and all quantities in excess of a total of three acre-feet per irrigable acre shall be furnished at the rate of $2.00 per acre-foot.

3. *Water for other lands.* Irrigation water, when available, will also be furnished at the rates described in paragraph 2, to other lands in the North Pavillion and North Portal areas upon the filing each year of a temporary water rental application covering such other lands. The approval of a water rental application for these lands shall not be deemed to constitute an action leading to a continuing right to receive water in subsequent years.

4. *Discounts and penalties.* If payment of the minimum charge is made on or before December 31, a discount of 5 percent of such charge will be allowed. If payment of the charge for additional water is made on or before December 31 of the year in which used, a discount of 5 percent of such charge will be allowed. If payment of the minimum charge is not made on April 1 of each year, and if payment for additional water furnished to any lands is not made on April 1, subsequent to the year in which such additional water is delivered, there shall be added on the following day a penalty of one-half of one percent of the amount unpaid on the first day of each calendar month thereafter so long as such default shall continue, and no water will be delivered until all charge and penalties have been paid in full.

5. *Place of payment.* Payment of water rental charges shall be made at the Reclamation Office in Riverton, Wyoming, or mailed to the Bureau of Reclamation, Riverton, Wyoming.

6. *Public Notices Nos. 28 and 30, supplemented.* This notice supersedes Public Notice No. 31 and supplements subparagraphs 24 (b) and 24 (c) of Public Notice No. 28, and subparagraphs 25 (b) and 25 (c) of Public Notice No. 30, Riverton Project.

K. F. VERNON,
Regional Director.

[F. R. Doc. 52–12713; Filed, Dec. 1, 1952; 8:52 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E–6370]

DEPARTMENT OF THE INTERIOR AND SOUTHWESTERN POWER ADMINISTRATION

NOTICE OF REQUEST FOR APPROVAL OF RATES AND CHARGES FOR SALE OF POWER TO ARKANSAS POWER & LIGHT COMPANY

NOVEMBER 25, 1952.

In the matter of United States Department of Interior, and Southwestern Power Administration; Docket No. E–6370.

Notice is hereby given that pursuant to the provisions of the Flood Control Act of 1944 (58 Stat. 890) the Secretary of the Interior filed with the Federal Power Commission for confirmation and approval rates and charges for the sale of electric power and energy from the Norfolk and Bull Shoals Projects by the Southwestern Power Administration (SPA) to Arkansas Power & Light Company as set forth in the contract between the United States and Arkansas Power and Light Company executed September 22, 1952.

In summary, the contract between the parties provides as follows:

The term of the contract is for the period from date of its execution to January 1, 1954, or until service is begun under the contract dated January 29, 1952, between SPA, Arkansas Power & Light Company and Reynolds Metals Company which ever is earlier.

SPA will sell 12,000,000 kwh per month to the Company scheduled at a rate of delivery not less than 10,000 kw and not greater than 60,000 kw under SPA Rate Schedule "A" heretofore approved by the Commission.

SPA will sell to the Company such additional power and energy as it determines in its sole judgment to be available, to be scheduled and delivered, under SPA Rate Schedule "A" as the parties from time to time mutually agree.

SPA will sell to the Company off-peak dump energy at a rate of 1.25 mills per kwh.

The Company during its off-peak periods will supply SPA with power at a demand governed by the actual load of SPA's customers (but not to exceed 20,000 kw). In return SPA, in the following month, will deliver electric energy to the Company during on-peak hours at a rate derived by dividing by 200 the total number of kwh received by SPA during the previous month. The Company will compensate SPA for the capacity utilized in returning the energy at a rate of $0.70 per kw per month.

The proposed contract would supersede a similar existing agreement dated April 10, 1951, which expires December 31, 1952.

Any person desiring to make comments or suggestions with respect to the above should submit the same on or before December 15, 1952, to the Federal Power Commission, Washington 25, D. C.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52–12743; Filed, Dec. 1, 1952; 8:56 a. m.]

[Docket No. E–6464]

ARIZONA PUBLIC SERVICE CO. AND NORTHERN ARIZONA LIGHT & POWER CO.

NOTICE OF APPLICATION

NOVEMBER 25, 1952.

Take notice that on November 24, 1952, a joint application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by Arizona Public Service Company (hereinafter called "Public Service") and Northern Arizona Light and Power Company (hereinafter called "Northern"), both of which are corporations organized under the laws of the State of Arizona and doing business in said State, with their principal business offices at Phoenix, Arizona, and Prescott, Arizona, respectively. Applicants seek an order authorizing the merger or consolidation of all of the facilities of Northern with and into those of its parent, Public Service. The facilities to be merged are all of the facilities of Applicants, which are located in the State of Arizona; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 15th day of December 1952, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52–12744; Filed, Dec. 1, 1952; 8:57 a. m.]

[Docket Nos. G–1947, G–1959]

TEXAS EASTERN TRANSMISSION CORP. AND WILCOX TREND GATHERING SYSTEM, INC.

ORDER OMITTING INTERMEDIATE DECISION AND FIXING DATE FOR ORAL ARGUMENT

NOVEMBER 25, 1952.

In the matter of Texas Eastern Transmission Corporation, Docket No. G–1947; Wilcox Trend Gathering System, Inc., Docket No. G–1959.

On October 22, 1952, counsel for Wilcox Trend Gathering System, Inc. (Wilcox) moved orally on the record that, pursuant to § 1.32 (c) of the Commission's rules of practice and procedure, the intermediate decision procedure in the above-entitled proceedings be waived and that oral argument before the Commission be granted in lieu of the filing of reply briefs. Counsel for Texas Eastern Transmission Corporation (Texas Eastern) joined in said motion. Commission Staff counsel and counsel for National Coal Association, et al., opposed said motion.

At the same time, Commission Staff counsel moved that the hearing stand in recess pending further order of the Commission. Said motion was supported by counsel for National Coal Association, et al., and was opposed by counsel for the Applicants.

Applicant, Texas Eastern Transmission Corporation, seeks a certificate of public convenience and necessity in Docket No. G–1947 to construct and operate a 24-inch natural-gas transmission pipeline which would extend approximately 315 miles from a point in Lavaca County, Texas, to a connection, with its existing 20-inch pipeline near Castor, Bienville Parish, Louisiana. Applicant Wilcox

Trend Gathering System, Inc., seeks a certificate of public convenience and necessity authorizing it to construct and operate a natural-gas transmission pipeline, which would extend from a point in the Hagist Ranch Field in McMullen County, Texas, approximately 157 miles to a point of connection with Texas Eastern's proposed 24-inch line near Provident City, Texas.

Texas Eastern would purchase 100,000 Mcf of gas per day from Wilcox at the delivery point near Provident City, and would transport such gas, as well as gas purchased by it from producers in the area, through its proposed 24-inch pipeline to the connection with its existing system near Castor, Louisiana. These additional quantities of gas would enable Texas Eastern to supplement its existing reserves in Louisiana, which it appears are declining.

The record shows that Wilcox has entered into more than thirty gas-purchase contracts with producers in Texas, and that each of said contracts contains a provision that, if a certificate of public convenience and necessity is not issued to Wilcox on or before November 1, 1952, the producer may cancel the contract. This provision has been amended to extend the November 1 date to December 15, 1952. Wilcox alleges that if a certificate is not issued by or before December 15, 1952, the producers from whom Wilcox proposes to purchase gas may cancel their gas sales contracts. Texas Eastern alleges that if a certificate is not issued to Wilcox by said date, Texas Eastern will face the loss of the gas supplies now under contract. Texas Eastern further alleges that such additional supplies are necessary in order to insure its ability to meet the total requirements on the Texas Eastern system.

Wilcox furthe alleges, and the record shows, that one of its gas-purchase contracts requires that it commence to take or pay for gas on December 1, 1952, and that under certain other contracts, gas must be taken or paid for by January 31, 1953.

The Commission hereby takes official notice of the extraordinary and increasingly crowded state of its docket, and of the growing difficulties experienced in concluding proceedings before the Commission stemming from the limited availability of personnel, including presiding examiners, to hear and initially decide cases.

The Presiding Examiner allowed the parties opportunity to file briefs, and initial briefs have been submitted by the Applicants and by Commission Staff counsel. Counsel for the Applicants have requested, in addition to omission of the intermediate decision procedure, that oral argument before the Commission be granted in lieu of the filing of reply briefs.

The aforementioned motion by Commission Staff counsel to recess the hearing pending further order of the Commission alleges that the applications herein, by reason of the Supreme Court's denial of certiorari in Algonquin Gas Transmission Corporation et al. v. Northeastern Gas Transmission Company, et al. (No. 70 October Term 1952), are not ripe for decision.

The Commission finds:

(1) Due and timely execution of its functions imperatively and unavoidably requires that the Commission omit the intermediate decision procedure in the above-entitled proceedings.

(2) Good cause exists and it is appropriate in carrying out the provisions of the Natural Gas Act that the request of counsel for the Applicants for oral argument be granted and that decision be reserved on the motion filed by Commission Staff counsel to recess the hearings pending further order by the Commission.

The Commission orders:

(A) The intermediate decision be and the same is hereby omitted with respect to the proceedings in Docket Nos. G–1947 and G–1959.

(B) Oral argument before the Commission concerning all the matters involved and the issues presented in the above-entitled proceedings be and the same hereby is set for December 3, 1952, at 10 a. m., e. s. t., in the Hearing Room, Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C.

(C) Decision on the motion by Commission Staff counsel to recess the hearing in the above-entitled matters pending further order of the Commission be and the same is hereby reserved.

Date of issuance: November 25, 1952.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52–12699; Filed, Dec. 1, 1952; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7–1467, 7–1468, 7–1469]

TWENTIETH CENTURY FOX FILM CORP. ET AL.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 25th day of November A. D. 1952.

In the matter of application by the Philadelphia-Baltimore Stock Exchange for Unlisted Trading Privileges in: Twentieth Century Fox Film Corporation, (Delaware), Common Stock, $1 Par Value, 7–1467; National Theatres, Inc., Common Stock, $1 Par Value, 7–1468; Washington Water Power Company, Common Stock, No Par Value, 7–1469.

The Philadelphia-Baltimore Stock Exchange pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F–1 thereunder, has made application for unlisted trading privileges in the Common Stock, $1 Par Value, of Twentieth Century Fox Film Corporation (Delaware), registered and listed on the New York Stock Exchange; the Common Stock, $1 Par Value, of National Theatres, Inc., registered and listed on the New York Stock Exchange; and the Common Stock, No Par Value, of Washington Water Power Company, registered and listed on the New York Stock Exchange.

Rule X-12F–1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to December 23, 1952, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52–12715; Filed, Dec. 1, 1952; 8:52 a. m.]

[File Nos. 70–2936, 70–2940]

REPUBLIC SERVICE CORP. AND GENERAL PUBLIC UTILITIES CORP.

ORDER AUTHORIZING PROPOSED CAPITAL CONTRIBUTION AND EXCHANGE OF SECURITIES

NOVEMBER 25, 1952.

In the matter of, Republic Service Corporation, File No. 70–2936; and General Public Utilities Corporation, File No. 70–2940.

Republic Service Corporation ("Republic"), a registered holding company, having filed an application-declaration and an amendment thereto pursuant to sections 9 (a) and 12 (d) of the Public Utility Holding Company Act of 1935 ("the act") and the applicable Rules thereunder; and General Public Utilities Corporation ("GPU"), a non-affiliate, also a registered holding company, having filed an application-declaration relating to the same matter pursuant to sections 6, 7, 9, and 10 of the act and the applicable rules thereunder; which several transactions are summarized as follows:

Republic proposes to deliver to GPU all the outstanding capital stock of Republic's wholly owned subsidiary Brockway Light, Heat and Power Company ("Brockway"), being 1,000 common shares of the par value of $100 each, in exchange for 20,150 shares of the common stock of GPU of the par value of $5 each; and GPU proposes in turn to deliver to Republic 20,150 shares of its common stock, now held in its treasury, in exchange for the 1,000 common shares of Brockway. Immediately prior to the exchange, Republic proposes to contribute to Brockway the total amount of all open account indebtedness owing

by Brockway to Republic, which amounted to $50,000 as of June 30, 1952.

Applicants state that Brockway is engaged in distributing electric energy in the Borough of Brockway and Snyder Township, in Jefferson County, Pennsylvania; that Brockway normally purchases all its electric energy requirements from GPU's subsidiary Pennsylvania Electric Company ("Penelec"), whose service area almost surrounds that of Brockway.

Republic represents that the exchange of its investment in Brockway for the GPU stock is a step in its over-all program to divest itself of its investments in its public utility subsidiaries and thus cease to be a holding company under the act. Republic expressly consents to the imposition of the following condition in the order of the Commission granting its application and permitting its declaration to become effective: That, within one year from the date of said order, Republic will either divest itself of its holdings of the GPU stock or cease to be a holding company as defined in the act.

GPU represents that it will retain Brockway as a part of its integrated electric utility system, and that it contemplates merging the properties of Brockway with those of Penelec. GPU states that closer coordination between Penelec's operations and those of Brockway will result in operating economies.

The applicants state that the exchange was effected by arm's-length bargaining, and that no brokerage fees or commissions will be paid in connection with the transactions. Republic estimates its expenses at approximately $2,500, including a legal fee of $1,200 and an accounting fee of $1,000. GPU estimates its expenses other than legal at approximately $750 and states that all legal work in its behalf is being done by its regularly retained counsel, whose over-all compensation will include compensation for services rendered herein. GPU's counsel state that their over-all compensation will include charges aggregating from $2,600 to $2,850 for their services in this matter.

Applicants further state that no other regulatory commission has jurisdiction over the steps to be taken in carrying out the proposed transactions, and they request that the Commission's order herein be made effective upon issuance.

Such applications-declarations having been duly filed, and notice of filing having been duly given as prescribed by Rule U-23, and the Borough of Brockway ("Borough") having filed an objection to the consummation of the proposed transactions, expressing an interest in acquiring Brockway's properties for municipal ownership and operation, and having requested an extension to December 1, 1952, of the period within which a request for hearing might be filed; and the Commission on November 17, 1952, having authorized an extension for one week, or until November 24, 1952, of the period within which the Borough might request a hearing and having forthwith notified the Borough of such extension of time; and no request for hearing having been received from the Borough within the period of time as extended, nor from any other person, and no hearing having been ordered; and

The Commission finding with respect to said applications-declarations as amended that the applicable provisions of the act and rules are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said applications-declarations as amended be granted and permitted to be come effective, subject to the terms and conditions hereinafter stated:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act:

(1) That the amended application-declaration filed by Republic herein be and is hereby granted and permitted to become effective forthwith; subject, however, to the condition that within one year from the date of this order Republic shall either divest itself of its holdings of the GPU stock or cease to be a holding company as defined in the act;

(2) That the application-declaration filed by GPU herein be and is hereby granted and permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-12716; Filed, Dec. 1, 1952; 8:53 a. m.]

[File No. 70-2959]

ARLINGTON GAS LIGHT CO.

NOTICE REGARDING FILING OF PROPOSED NOTE ISSUES

NOVEMBER 25, 1952.

Notice is hereby given that a declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by Arlington Gas Light Company ("Arlington"), a public-utility subsidiary company of New England Electric System, a registered holding company. Arlington has designated sections 6 (a) and 7 of the act and Rule U-23 thereunder as applicable to the proposed transactions, which are summarized as follows:

The declaration states that Arlington presently has outstanding $1,435,000 principal amount of 3¼ percent promissory notes due April 1, 1953, issued pursuant to a bank loan agreement with the National City Bank of New York. Arlington proposes to issue to this bank, from time to time but not later than December 31, 1952, additional unsecured promissory notes in an aggregate principal amount not in excess of $350,000 and upon the same terms and conditions as the presently outstanding notes.

Arlington desires to issue the proposed notes in order to have available funds for the temporary financing of its construction program through December 31, 1952, and to reimburse its treasury for prior construction expenditures. Arlington proposes that if any permanent financing is done, the proceeds therefrom will be applied in reduction of, or in total payment of, promissory notes then outstanding, and the amount of authorized but unissued notes, if any, will be reduced by the amount, if any, by which such permanent financing exceeds the notes at the time outstanding.

The declaration states that incidental services in connection with the proposed note issues will be performed, at cost, by New England Power Service Company, an affiliated service company, such cost being estimated not to exceed $500. The declaration further states that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Arlington requests that the Commission's Order herein become effective forthwith upon issuance.

Notice is further given that any interested person may, not later than December 8, 1952, at 5:30 a. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reason or reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date, the declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 and U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-12717; Filed, Dec. 1, 1952; 8:53 a. m.]

[File No. 70-2954]

PHILADELPHIA CO. ET AL.

ORDER PERMITTING TAX AGREEMENT AMONG PARENT AND SUBSIDIARIES

NOVEMBER 25, 1952.

In the matter of Philadelphia Company, Duquesne Light Company, Allegheny County Steam Heating Company, Cheswick and Harmar Railroad Company; File No. 70-2954.

Philadelphia Company ("Philadelphia"), a registered holding company and a subsidiary of Standard Gas and Electric Company ("Standard") also a registered holding company, Duquesne Light Company ("Duquesne"), a public utility subsidiary of Philadelphia, and Allegheny County Steam Heating Company ("Allegheny"), and Cheswick and Harmar Railroad Company ("Cheswick"), nonutility subsidiaries of Duquesne, having filed a joint declaration, and amendments thereto, pursuant to section 12 (f) of the act and Rule U-45

promulgated thereunder with respect to the following transactions:

On October 1, 1952, the Commission approved Steps I and I–A of a plan of liquidation of Standard, filed pursuant to section 11 (e) of the act. (Holding Company Act Release No. 11510.) Step I involves the retirement of the Prior Preference Stock of Standard through the distribution of portfolio stocks of Standard, including common stock of Duquesne. Step I–A involves the settlement of various intercompany claims between Standard and its parent Standard Power and Light Corporation ("Power"), also a registered holding company, and provides, among other things, for the transfer of 31,000 shares of the common stock of Duquesne by Standard to Power. On November 7, 1952, the United States District Court for the District of Delaware issued an order approving and enforcing Steps I and I–A. Standard has indicated that it intends to consummate these Steps on December 1, 1952.

It is also proposed under Step I of the aforementioned plan that Philadelphia will enter into separate agreements with Duquesne and its subsidiaries Allegheny and Cheswick with respect to the apportionment of Federal income and excess profits taxes, and refunds thereof, if any, covering the period from 1942 through 1950 during which such companies joined with Standard in the filing of consolidated tax returns. The agreement with Duquesne provides in substance that (a) Duquesne will pay its share (as determined under previous agreements) of any additional Federal income and excess profits taxes, on a consolidated tax return basis, for all years through 1950 up to an aggregate of (i) $8,117,571, the amount accrued on its books for such taxes as of July 3, 1952, (ii) $2,000,000, representing the estimated possible additional liability for such taxes, and (iii) its share of any interim refunds of such income and excess profits taxes received after July 3, 1952; (b) that Philadelphia will assume all liability for such taxes for the years through 1950 in excess of such aggregate amount; and (c) that if the share of Duquesne of the net aggregate of the taxes finally determined to be payable is less than the amount of such taxes paid by Duquesne prior to July 3, 1952, Philadelphia will be entitled to the resulting net refunds and interest thereon.

The agreements with Allegheny and Cheswick provide in substance that (a) Allegheny and Cheswick will pay their share of any additional Federal income and excess profits taxes on a consolidated tax return basis, for all years through 1950 up to an aggregate of (i) the respective amounts accrued therefor on their books as of July 3, 1952 ($57,031.52 in the case of Allegheny and $6,412.16 in the case of Cheswick), and (ii) their respective shares of interim refunds received after July 3, 1952; and (b) that Philadelphia will assume all liability for such taxes for the years through 1950 in excess of such respective aggregate amounts and will be entitled to receive all net refunds and interest thereon for such years.

In its findings and opinion approving Step I of the aforesaid Standard plan, this Commission found that the proposed agreements would be fair and equitable to Standard's security holders and to Philadelphia, Duquesne, Allegheny and Cheswick. In the present filing specific approval is sought as to the execution of the proposed agreements since Duquesne, Allegheny and Cheswick were not parties to the proceeding involving Step I of the Standard plan.

The declarants estimate that their expenses will not exceed $100 and state that services of counsel are not to be separated from their general services in connection with Step I of the Standard plan, for which compensation will be sought in connection with the reorganization of Standard.

The filing indicates that no State or Federal Commission, other than this Commission, has jurisdiction over the proposed tranactions.

Appropriate notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to the act, and the Commission not having received a request for a hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to the declaration, as amended, that the applicable provisions of the act and rules promulgated thereunder are satisfied and that no adverse findings are necessary, that the estimated fees and expenses are not unreasonable and that it is not necessary to impose any terms and conditions other than those set forth below, and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, be permitted to become effective forthwith, and deeming it appropriate to grant applicants' request for tax recitals conforming to the requirements of Supplement R of the Internal Revenue Code, as amended:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said declaration, as amended, be, and the same hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

It is further ordered and recited, That the exchanges, expenditures, distributions and receipts hereinafter described which are proposed by Philadelphia, Duquesne, Allegheny and Cheswick are hereby authorized and approved and are necessary and appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, all in accordance with the meaning and requirements of Supplement R of the Internal Revenue Code, as amended, the property to be exchanged, distributed and received upon such transactions, and the expenditures to be made, being specified and itemized as follows:

The execution and delivery by and between Duquesne, Allegheny and Cheswick, on the one hand, and Philadelphia, on the other, of agreements relating to Federal income and excess profits taxes for the periods (ending on or prior to December 31, 1950) in which Duquesne, Allegheny and/or Cheswick were included in consolidated Federal tax returns filed for Standard and other companies in the Standard system, in the forms filed as exhibits in this proceeding and heretofore approved in this order, the distribution to Philadelphia by Duquesne, Allegheny and Cheswick of such rights as Philadelphia may acquire under said agreements to receive any refunds of consolidated Federal income and excess profits taxes and the performance by Duquesne, Allegheny, Cheswick and Philadelphia of the acts and obligations on their parts to be performed under said agreements.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 52–12720; Filed, Dec. 1, 1952; 8:54 a. m.]

[File No. 70–2960]

GULF POWER CO.

NOTICE OF FILING REGARDING PROPOSED ISSUANCE OF SHORT TERM BANK LOAN NOTES

NOVEMBER 25, 1952.

Notice is hereby given than an application-declaration has been filed with this Commission by Gulf Power Company ("Gulf"), a public utility subsidiary of the Southern Company, a registered holding company. Gulf has designated section 6 (b) or, in the alternative, sections 6 (a) and 7 of the act as applicable to the proposed transactions, which are summarized as follows:

Gulf proposes to issue and sell, from time to time prior to June 1, 1953, up to $4,000,000 principal amount of short term bank loan notes to fifteen banks, whose participations are designated in the filing. The notes will mature not later than nine months from the dates of issue and will bear interest at the current rate for nine-month bank loans at the time of their issuance, which is 3 percent at the present time. In the event that the interest rate is in excess of 3¼ percent per annum at the time any of said notes is to be issued, Gulf will file an amendment to this filing stating the rate of interest and other details of the note or notes at least 5 days prior to the execution and delivery thereof.

The application-declaration states that the proceeds to be derived from the sale of these notes will be used to finance improvements, extensions and additions to its utility plant or to reimburse its treasury in part for expenditures incurred for such purposes. Gulf proposes to retire the notes out of the proceeds from the sale of additional

securities of a type and in an amount not yet determined.

It is represented that no State Commission or any other Federal Commission has jurisdiction over the proposed transactions.

Gulf estimates that the expenses in connection with the proposed transactions will not exceed $500 and it requests that the Commission's order herein become effective upon issuance.

Notice is further given that any interested person may, not later than December 9, 1952, at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said application-declaration which he desires to controvert or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At anytime after December 9, 1952, said application-declaration, as filed or as amended, may be granted or permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-12718; Filed, Dec. 1, 1952; 8:53 a. m.]

[File No. 812-801]

INVESTORS DIVERSIFIED SERVICES, INC. ET AL.

NOTICE OF APPLICATION STATEMENT OF ISSUES ORDER FOR HEARING

NOVEMBER 25, 1952.

In the matter of Investors Diversified Services, Inc., Investors Stock Fund, Inc., Investors Syndicate of America, Inc., File No. 812-801.

Notice is hereby given that Investors Diversified Services, Inc. ("I. D. S."), Investors Stock Fund, Inc. ("Stock Fund"), and Investors Syndicate of America, Inc. ("Investors Syndicate") have filed a joint application pursuant to sections 6 (c), 17 (a), 17 (b), 17 (d) and 22 (d) of the Investment Company Act of 1940 ("the act") and Rule N-17D-1 thereunder, relating to a retirement plan proposed to be offered to certain employees of I. D. S., including officers, who become eligible under its terms.

I. D. S. is registered under the Act as a face-amount certificate company. It is engaged in servicing its outstanding face-amount certificates sold prior to the enactment of the act and is also the distributor of the securities of, and the investment adviser for Investors Syndicate, a registered face-amount certificate company and a wholly-owned subsidiary, and Investors Mutual, Inc., Stock Fund and Investors Selective Fund, Inc., registered open-end investment companies organized and promoted by I. D. S. It also has a wholly-owned subsidiary, Investors Syndicate Title & Guaranty Company of New York, engaged in selling face-amount certificates in New York State and a wholly owned subsidiary, Investors Syndicate of Canada, Ltd., engaged in selling face-amount certificates in Canada and in distributing the securities of and managing Investors Mutual of Canada, Ltd., an open-end investment company. I. D. S. is controlled by Alleghany Corporation, a holding company.

Under the proposed plan, I. D. S. will contribute for past and future service and eligible employees will also contribute from date of eligibility to retirement or termination of eligibility. I. D. S. may not contribute in any one year more than ten percent of its total obligation for past service but not more than $150,000, plus not more than four percent of the annual gross salary to all employees for future service. Total contributions in any one year by I. D. S. may not exceed twenty percent of its net income (including undistributed earnings of subsidiaries and before taxes) for the preceding fiscal year. It appears that the annual cost to I. D. S., before tax savings, would be $112,000 annually for ten years for past service and would range from $126,000 in 1952 to $162,000 in 1957 for future service. Eligible employees are to contribute three percent of annual earnings up to $3,600 plus 4½ percent of such earnings in excess thereof. The contributions will be placed in trust and invested in shares of Stock Fund and in fully-paid face-amount certificates of Investors Syndicate, without loading charge. To be eligible, employees including officers must have completed two years of service, be at least thirty years of age and not over sixty, except that those over sixty at the effective date of the plan will participate. Adoption of the plan is contingent upon approval of the Bureau of Internal Revenue under section 165 of the Internal Revenue Code and of the Wage and Salary Stabilization Boards.

Section 17 (d) of the act and Rule N-17D-1 thereunder prohibit affiliated persons, such as officers or employees, of a registered investment company from participating in a pension plan unless the Commission issues an order upon application therefor, prior to submission of such plan to security holders for approval or prior to its adoption if not so submitted.

Sections 17 (a) and (b) prohibit the sale and purchase of securities between affiliated persons, such as the acquisition of securities of Stock Fund and Investors Syndicate by the plan, unless the Commission issues an order upon application therefor after finding that the prescribed standards of section 17 (b) have been met.

Section 22 (d) prohibits the sale of redeemable securities of registered investment companies, such as those of Stock Fund to the plan, below the current public offering price described in the prospectus, except in certain instances not here pertinent.

Section 6 (c) permits the Commission upon application to exempt any person or transaction from any provision of the act, conditionally or unconditionally, if necessary or appropriate in the public interest and consistent with the protection of investors and the purposes of the act.

For a more detailed statement of matters of fact and law, all interested persons are referred to said application which is on file at the office of the Commission at 425 Second Street NW., Washington 25, D. C.

The Division of Corporation Finance has advised the Commission that upon a preliminary examination of the application, it deems the following matters and issues to be raised thereby, without prejudice to the specification of additional issues upon examination:

1. Whether the provisions of the plan are consistent with the public interest and the protection of investors, and the provisions, policies and purposes of the act.

2. Whether the cost of the plan in relation to the financial position of I. D. S. is detrimental to certificate holders.

3. Whether, and the extent to which, the issuance of the order requested should be subject to conditions or arrangements as may appear necessary or appropriate in the public interest and the protection of investors.

It appearing to the Commission that a hearing upon the application is necessary and appropriate:

It is ordered, Pursuant to section 40 (a) of said act, that a public hearing on the aforesaid application be held on December 15, 1952, at 10:00 a. m., e. s. t., in Room 193 of the offices of the Commission, 425 Second Street NW., Washington 25, D. C.

It is further ordered, That Harold B. Teegarden or any officer or officers of the Commission designated by it for that purpose shall preside at the hearing and any officer or officers so designated to preside at such hearing are hereby authorized to exercise all of the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to hearing officers under the Commission's rule of practice.

Notice of such hearing is hereby given to Investors Diversified Services, Inc., Investors Stock Fund, Inc., Investors Syndicate of America, Inc., and to any other person or persons whose participation in such proceeding may be necessary or appropriate in the public interest or for the protection of investors. Any person desiring to be heard in said proceeding should file with the hearing officer or the Secretary of the Commission, on or before December 10, 1952, his application therefor as provided by Rule XVII of the rules of practice of the Commission, setting forth therein any matters or issues he desires raised by the aforesaid application.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-12719; Filed, Dec. 1, 1952; 8:53 a. m.]

DEPARTMENT OF COMMERCE

Bureau of the Census

INVENTORIES AND SALES OF RETAILERS

NOTICE OF CONSIDERATION FOR SURVEYS

Notice is hereby given that the Bureau of the Census is considering a proposal to conduct an annual retail trade survey of year-end inventories; annual sales; and accounts receivable, charge and installment, as of the end of the year, under the provisions of the act of Congress approved June 19, 1948, 62 Stat. 473. This survey will provide the only continuing source of important information on these phases of retail trade in the various kinds of retail business and, on the basis of information and recommendations received by the Bureau of the Census, the data have significant application to the needs of the public, and the distributive trade and other government agencies, and are not publicly available from non-governmental or other governmental sources.

Such survey, if conducted, shall begin not earlier than 30 days after publication of this notice in the FEDERAL REGISTER.

Reports will not be required from all retail stores in the United States, but only from a selected sample, in order to provide, with measurable reliability, national inventory figures, sales-inventory ratios, and charge and installment accounts receivable as of the end of the year. Reports will be requested from some stores on the basis of their sales size and/or location in Census Sample Areas. Reports will also be requested from some retail firms who operate stores outside Census Sample Areas but whose headquarters are located therein. A group of the largest individual stores and the largest retail firms in terms of number of stores operated will be requested to report regardless of their location.

Copies of the proposed forms and a description of the collection methods are available on request to the Director, Bureau of the Census, Washington 25, D. C.

Any suggestions or recommendations concerning the subject matter of this proposed survey should be submitted in writing to the Director of the Census and will receive consideration.

[SEAL] ROY V. PEEL,
Director.

Approved:

THOMAS W. S. DAVIS,
Acting Secretary of Commerce.

[F. R. Doc. 52–12697; Filed, Dec. 1, 1952; 8:45 a. m.]

Federal Maritime Board

MITSUI STEAMSHIP CO., LTD. ET AL.

NOTICE OF AGREEMENTS FILED WITH THE BOARD FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended.

(1) Agreement No. 7878 between Mitsui Steamship Co., Ltd., and Waterman Steamship Corporation covers the transportation of cargo under through bills of lading from Japan, Korea, Formosa, Manchuria (Manchuko), Siberia, China, Hong Kong, Siam, Indo-China, Kwantung, and the Philippine Islands to San Juan, Ponce, or Mayaguez, Puerto Rico, with transhipment at Seattle, Portland, San Francisco, Los Angeles Harbor, or Long Beach.

(2) Agreement No. 6080–8, between the Member Lines of the United States Atlantic and Gulf-Santo Domingo Conference, modifies the basic agreement of that Conference (No. 6080) to include shipments of coal and coke in bulk moving to Dominican Republic and raw sugar moving from Dominican Republic; to remove provision for the establishment and maintenance of through rates and charges and divisions thereof on through shipments orginating at ports within the scope of the agreement destined to ports beyond the scope of the agreement; and to remove provision for the establishment and maintenance of divisions of through rates and charges on through shipments originating at ports beyond the scope of the agreement and destined to ports within the scope thereof.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice, in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: November 26, 1952.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 52–12756; Filed, Dec. 1, 1952; 8:59 a. m.]

National Production Authority

[Suspension Order 44; Docket No. 46]

COWIN AND CO., INC.

MODIFICATION OF SUSPENSION ORDER

The above-entitled matter is before the Chief Hearing Commissioner, National Production Authority, on the prayer for relief by the respondent under the provisions of paragraph (c) of section 5 of NPA Rules of Practice, 17 F. R. 8156, from the provisions of a suspension order entered November 3, 1952, by NPA Hearing Commissioner Stanley H. Johnson, of Denver, Colo.

Appearances:

Rex H. Kitts, of the law firm of Faegre & Benson, of Minneapolis, Minn., for the respondent.

Robert H. Winn, Assistant General Counsel, attorney Jonathan B. Rintels, both of Washington, D. C.; Berthold J. Harris, Regional Attorney, Chicago, Ill., and W. J. Steichen, Regional Compliance Officer, Minneapolis, Minn., for the National Production Authority.

It is alleged by the respondent aforesaid that by agreement reached by counsel for Cowin & Company, Inc., and the National Production Authority, prior to the entry of the aforesaid order of disposition of November 3, 1952, no objection would be raised by the Government to a recoupment of such amount as might be decided upon by the hearing commissioner, apportioned among the various product codes under which the respondent receives allotments as said respondent may elect.

It is further alleged that through inadvertence the above agreement was not timely communicated to said hearing commissioner, and as a result the suspension order as now entered requires the respondent to reduce in K–1 by 58,000 pounds, and in K–7 by 438,000 pounds.

Said order of November 3, 1952, now provides:

1. That respondent's total allotments of carbon steel under K–1 be reduced 58,000 pounds as follows: 18,000 pounds during the remainder of the fourth quarter 1952, and 20,000 pounds each in the first and second quarters 1953.

2. That respondent's total allotments of carbon steel under K–7 be reduced 438,000 pounds as follows: 138,000 pounds or more at the option of respondent in the fourth quarter 1952; one-half of the balance in the first quarter 1953; and the remainder in the second quarter 1953.

3. That respondent's total allotments of aluminum be reduced 11,763 pounds, as follows: 10,000 pounds in the fourth quarter 1952, and the balance in the first quarter 1953.

Respondent specifically prays that the above-quoted original paragraphs 1, 2, and 3 of said order of November 3, 1952, be set aside and that there be substituted therefor the following provisions:

1. That respondent's total allotments of carbon steel under K–1 and K–7 be reduced 496,000 pounds as follows: 156,000 pounds or more at the option of respondent in the fourth quarter 1952; one-half of the balance in the first quarter 1953; and the remainder in the second quarter 1953.

2. That respondent's total allotments of aluminum be reduced 11,763 pounds, as follows: 10,000 pounds in the fourth quarter 1952, and the balance in the first quarter 1953.

Counsel for the National Production Authority has joined counsel for the respondent in the foregoing prayer, and with the concurrence of Hearing Commissioner Stanley H. Johnson the aforesaid order of November 3, 1952, is hereby amended by striking therefrom the above quoted paragraphs 1, 2, and 3 of said order and by the substitution therefor of paragraphs 1 and 2 as set out above.

Said order of November 3, 1952, is further amended by substituting the word "purchases" in the 23d and 24th lines of the third textual paragraph of the order for the word "purposes."

Issued at Washington, D. C., this 20th day of November 1952.

NATIONAL PRODUCTION AUTHORITY,
By MORRIS R. BEVINGTON,
Deputy Chief Hearing Commissioner.

[F. R. Doc. 52–12794; Filed, Nov. 28, 1952; 2:50 p. m.]

[Suspension Order 47; Docket No. 41]

TREASURE ISLE POOL AND CABANAS, INC., ET AL.

SUSPENSION ORDER

A hearing having been held in the above-entitled matter on the 1st day of October 1952 before Russell A. Rasco, a hearing commissioner of the National Production Authority, on a statement of charges by the General Counsel, National Production Authority, in accordance with the National Production Authority's General Administrative Order 16–06, as amended (16 F. R. 8628), dated July 21, 1951, and Rules of Practice 1, Revised (17 F. R. 8156), dated September 8, 1952; and

The respondents, Treasure Isle Pool and Cabanas, Inc., Evelyn Homes, Inc., White Star Realty Company, Inc., Bernard A. Kornblum, and Irving Greenfield, having been duly apprised of the specific violations charged and the administrative action which may be taken, and having been fully informed of the rules and procedures which govern these proceedings, and having filed answers to the charges through their attorney, Hymen Lake, Esq., who represented said respondents at said hearing; and

The respondents and their said attorney having entered into an agreed statement of facts with counsel for National Production Authority dated September 23, 1952, wherein respondents admit the commission of the acts charged in Charges 1 and 2 of the statement of charges dated August 1, 1952, and filed herein by the General Counsel and that the orders, regulations, directions, delegations, statement, and implementation cited in said statement of charges were lawfully issued, published, and in full force and effect at all the times set out in said statement of charges, and wherein it is agreed that the respondents relied upon the opinion of their architect in constructing said project, who advised them that said construction was not prohibited by said orders for the reason that it was commenced prior to October 1, 1951, and only controlled materials which were in respondents' inventory on or before October 1, 1951, would be incorporated into the structures described in said statement of charges; and said agreed statement of facts having been introduced in evidence in lieu of the presentation of other evidence in support of and in opposition to the facts alleged in said statement of charges, in accordance with a stipulation therein contained; and the respondents, together with counsel for all parties having been heard, it is hereby determined:

Findings of fact and law: 1. Treasure Isle Pool and Cabanas, Inc., Evelyn Homes, Inc., and White Star Realty Company, Inc., are corporations organized and existing under the laws of the State of Florida, with their principal places of business in Dade County, Fla.; that White Star Realty Company and Evelyn Homes, Inc., are engaged in the business of developing, as owner and builder or improver respectively, real estate in the area of Greater Miami, Fla.; that Treasure Isle Pool and Cabanas, Inc., is engaged in the operation and management, as lessee of White Star Realty Company, Inc., of the swimming pool, cabanas, and bathhouses referred to in Charge 1 of said statement of charges; that Bernard A. Kornblum was, during the period hereinafter set out in Findings No. 2, and is now, the president of Treasure Isle Pool and Cabanas, Inc., and Evelyn Homes, Inc.; and that Irving Greenfield was, during the period hereinafter set out in Findings No. 2, and is now, secretary of Treasure Isle Pool and Cabanas, Inc., vice president and treasurer of Evelyn Homes, Inc., and secretary and treasurer of White Star Realty Company, Inc.; and they were the active executive heads of said corporations during the period next hereinafter set out.

2. During the period beginning September 29, 1951, and ending on or about April 20, 1952, said corporate respondents constructed a project within the terms and meaning of Table I construction, as defined and listed in the construction orders of the National Production Authority in effect during said period, consisting of NPA Order M–4A, as amended August 20, 1951, CMP Regulation No. 6, as amended August 3, 1951, and March 6, 1952, and Direction 1 to CMP Regulation No. 6, as amended August 22, 1951, to-wit: A swimming pool, cabanas, and bathhouses, on the north side of North Treasure Drive and east of Hispanola Avenue, North Bay Village, Dade County, Florida, in which the total requirements of steel and copper controlled materials for said construction were 23 tons of carbon steel and 540 pounds of copper.

3. That the individual respondents herein, Bernard A. Kornblum and Irving Greenfield, while being at least the owners of a part of the stock in said corporate respondents, managed, dominated, controlled and were responsible for the direction and supervision of the acts of said corporate respondents during the time of the construction of the swimming pool, cabanas and bathhouses, as set forth in Findings No. 2 hereof.

4. That section 3 (d) of National Production Authority Direction 1 to its CMP Regulation No. 6, as amended August 22, 1951, prohibits the construction of the type of project described in Findings No. 2 hereof, in which the total requirements for completion of such construction exceeds two (2) tons of carbon steel and two hundred (200) pounds of copper and copper-base alloy; and section 4 (a) of National Production Authority Order M–4A, as amended August 20, 1951, prohibits the commencement of such construction, while section 4 (b) of said order prohibits the continuation thereof after September 30, 1951, and section 3 (a) (2) of National Production Authority CMP Regulation No. 6, as amended March 6, 1952, prohibits the continuation of such construction after March 5, 1952; and said provisions of said order, regulation, and direction were in full force and effect during the period set out in Findings No. 2 hereof.

5. That no evidence was submitted that the violations by the respondents were willful or done with the intent to violate the Act or defeat its purposes, but on the other hand it was stipulated by the respondents that the respondents relied upon the opinion of their architect in constructing said project, who advised them that said construction was not prohibited by said orders because it would be commenced prior to October 1, 1951, and only controlled materials that were in the inventory on or before October 1, 1951, would be incorporated into the structures described in said statement of charges, which conclusively shows that the respondents knew of the regulations, and the failure to properly examine such regulations and ascertain the contents of such regulations is tantamount to a willful violation.

Conclusions: That during the period beginning September 29, 1951, and ending on or about April 20, 1952, the respondents, and each of them, herein violated the provisions of the National Production Authority order, regulation, and direction as hereinabove cited, in that they constructed a Table I project, to-wit: a swimming pool, cabanas, and bathhouses, on the north side of North Treasure Drive and East of Hispanola Avenue, North Bay Village, Dade County, Florida, in which the total requirements of steel and copper controlled materials for said construction exceeded by twenty-one (21) tons, the two (2) tons of carbon steel, and exceeded by three hundred and forty (340) pounds, the two hundred (200) pounds of copper permitted by the provisions in said orders for use in such construction.

In order to remedy the disruptions in the priority and allocation program and in order to correct the unauthorized and improper use of controlled materials occasioned by the violations herein found, and in order to prevent future violations of National Production Authority orders, regulations, and directives by the respondents,

It is ordered: 1. That all priority assistance be and is hereby withdrawn and withheld from White Star Realty Company, Inc., Evelyn Homes, Inc., Treasure Isle Pool and Cabanas, Inc., and from Bernard A. Kornblum and Irving Greenfield, as an officer or as officers of said corporations, or either of them, and individually, and each of their respective successors and assigns, for a period of ninety (90) days beginning October 1, 1952.

2. That all allocations and allotments of controlled materials and materials under the control of the National Production Authority be and they are hereby withdrawn and withheld from White Star Realty Company, Inc., Evelyn Homes, Inc., Treasure Isle Pool and Cabanas, Inc., and from Bernard A. Kornblum and Irving Greenfield, as an officer or as officers of said corporations, or either of them, and individually, and each of their respective successors and assigns, for a period of ninety (90) days beginning October 1, 1952.

3. That White Star Realty Company, Inc., Evelyn Homes, Inc., Treasure Isle Pool and Cabanas, Inc., and Bernard A. Kornblum and Irving Greenfield, as an officer or officers of said corporations, or either of them, and individually, and each of their respective successors and assigns, be and they are hereby prohibited from acquiring, using or disposing of controlled materials and materials under the control of the National Production Authority, for a period of

ninety (90) day beginning October 1, 1952.

4. That all privileges of self-certification and self-authorization now, or which may be hereafter, granted by the National Production Authority with respect to controlled materials and materials under the control of the National Production Authority be, and they are hereby, withdrawn and withheld from White Star Realty Company, Inc., Evelyn Homes, Inc., Treasure Isle Pool and Cabanas, Inc., and Bernard A. Kornblum and Irving Greenfield, as an officer or as officers of said corporations, or either of them, and individually, and each of their respective successors and assigns, for a period of ninety (90) days beginning October 1, 1952.

Issued at Coral Gables, Fla., this 13th day of November A. D. 1952.

NATIONAL PRODUCTION AUTHORITY,
By R. A. RASCO,
Hearing Commissioner.

[F. R. Doc. 52-12832; Filed, Dec. 1, 1952; 11:30 a. m.]

[NPA Delegation 5, as Amended December 2, 1952]

DEFENSE MATERIALS PROCUREMENT ADMINISTRATOR

DELEGATION OF AUTHORITY WITH RESPECT TO CERTAIN METALS AND MINERALS

NPA Delegation 5 as last amended May 16, 1952, is hereby further amended to read as follows:

Pursuant to Executive Orders 10161, 10200, and 10281 (15 F. R. 6105; 16 F. R. 61; 16 F. R. 8789), Defense Production Administration Delegation No. 1, as amended (16 F. R. 738; 16 F. R. 4594), and the delegation of authority in NPA Organizational Statement No. 1 (17 F. R. 4305), all issued under the Defense Production Act of 1950, as amended, there are hereby delegated to the Defense Materials Procurement Administrator all functions conferred upon the Secretary of Commerce by Defense Production Administration Delegation No. 1, as amended, with respect to the source materials listed in column II of the commodities listed in column I of Appendix A of this delegation.

For better general understanding of the relationship between and the respective responsibilities of the Defense Materials Procurement Agency and the National Production Authority in the field of metals and minerals, Appendix A delineates, also, the claimant responsibilities of Defense Materials Procurement Agency (column III), and the allocating and claimant responsibilities remaining with the National Production Authority (columns IV and V) for the listed commodities.

The authority herein delegated shall be exercised in conformity with such production policies and programs as may be established by the National Production Authority.

The functions herein delegated may be redelegated within the Defense Materials Procurement Agency in the discretion of the Administrator thereof.

This amended delegation shall take effect December 2, 1952.

NATIONAL PRODUCTION AUTHORITY,
R. A. MCDONALD,
Administrator.

APPENDIX A OF NPA DELEGATION 5

Commodity Column I	DMPA allocating responsibility Column II	DMPA claimant responsibility Column III	NPA allocating responsibility Column IV	NPA claimant responsibility Column V
Abrasives:				
Diamonds		Diamond mines and mills	Bort, stones, etc	Diamond tool manufacturers.
Diatomite	Crude diatomite	Diatomite mines and mills	Milled or calcined diatomite	Diatomite consumers.
Corundum	Ore concentrate and crystal corundum.	Mines; crushing and grading plants.	Crushed and graded corundum	Abrasive wheel manufacturers, optical lens grinders.
Emery	Ore	Mines; crushing and grading plants.	Crushed emery	Abrasive wheel, paper, and compound plants.
Garnet	Ore and concentrate	Mines; concentrating, crushing and grading plants.	Crushed and graded garnet	Abrasive paper and wheel plants, sandblasters.
Grinding and sharpening stones (natural).	Crude stone	Quarries and stone-cutting mills	Grinding and sharpening stones	Abrasive stone users.
Grinding pebbles and mill.	Crude stone	Quarries, concentrating and cutting mills.	Pebbles, shaped liners and blocks	Ceramic and other grinding plants.
Pumice	Crude pumice	Mines; crushing and grading plants.	Crushed and graded pumice	Construction firms, cleansing and abrasive product plants.
Quartzite (Silica quartz).	Crude ores	Mines; quarries, crushing and grading plants.	Crushed and graded silica; quartz crystals.	Cutting plants; producers of silicon metal, ferrosilicon and other silicon alloys.
Tripoli, amorphous silica, rottenstone (crude).	Crude tripoli, etc	Mines; crushing and grading plants.	Crushed and graded tripoli, etc	Buffing and cleansing compound plants, other consumers.
Aluminum	Crude, dried, and calcined bauxite, including refractory grades and abrasives; alumina.	Bauxite mines, drying and calcining plants; alumina plants; reduction plants.	Aluminum, pig or ingot, primary or secondary; sheet, bars, plates, and all fabricated forms; refractory products.	Foundries, rolling mills, extrusion mills, forging mills, and all other fabricating plants; secondary smelters; producers of refractories.
Antimony		Mines, mills, smelters, refineries	Ores and concentrates; residues, slab metal oxides, sulphides, antimonates and chlorides.	Fabricators and manufacturers of antimony-bearing products.
Arsenic		Concentrators, primary smelters and refinerics.	Concentrates; residues; crude and refined oxides and metal.	Arsenic product manufacturers and chemical plants.
Ashestos	Unmilled asbestos	Ashestos mines and mills	Milled and graded ashestos fiber	Ashestos products plants.
Barite and witherite	Crude	Barium mineral mines, beneficiating, grinding and grading plants.	Concentrated, ground and graded barium minerals.	Barium chemical, lithopone, paint, glass plants.
Beryllium	Ores	Mines, mills and plants, processing ore and producing beryllium chemicals, metals and alloys.	Primary and secondary beryllium metal, alloys, chemicals and compounds.	Atomic Energy Commission; instrument manufacturers; chemical and phosphor manufacturers; X-ray tube manufacturers; dielectric manufacturers.
Bismuth		Concentrators, smelters and refineries.	Concentrates; base bullion; residues; refined metal.	Bismuth, chemical and alloy producers.
Boron	Crude boron ores and brines	Mines; concentrating plants	Borax and boric acid; other boron chemicals; boron metal and alloys.	Producers of boric acid, ferroboron, boron metals and alloys.
Bromine	Bitterns, brines	Recovery plants	Bromine and bromine compounds	Anti-knock compound plants.
Cadmium		Concentrators, smelters and refiners.	Concentrates; residues; refined metal	Fabricators and manufacturers of cadmium-bearing products.
Calcium chloride (natural)		Brine processing plants	Natural calcium chloride	Calcium chloride consumers.
Cerium and other rare-earth metals.	Ores	Mines, dredges, mills and chemical plants processing ore and producing rare-earth chemicals and metals.	Compounds, chemicals and metals	Flint and alloys producers; glass and carbon are manufacturers.
Chromium	Ores, concentrates	Mines; concentrating plants; sintering plants.	Chromium metal; ferro-chrome and all other chromium alloys; chromium chemicals and chromium-bearing refractories.	Reduction plants; electro-reduction plants; ferroalloy plants; chemical producers; refractory manufacturers.

APPENDIX A OF NPA DELEGATION 5—Continued

Commodity Column I	DMPA allocating responsibility Column II	DMPA claimant responsibility Column III	NPA allocating responsibility Column IV	NPA claimant responsibility Column V
Clays:				
Kaolin	Crude ore	Mines, mills	Refractory products	Producers of refractories except in mining and mining operations.
Ball clay	Crude ore; calcined clay	Mines, mills	Refractory products	Producers of refractory products.
Bentonite	Crude ore	Mines, mills	Refractory products	Producers of refractory products.
Fuller's earth	Crude	Mines, mills	Milled and graded fuller's earth	Vegetable oil refiners, machine shops.
Fire clay	Crude ore	Mines, mills	Refractory products	Producers of refractory products.
Common clay	Crude common-clay shale	Clay pits and mines	Structural clay products	Brick and tile plants, structural clay products plants.
Cobalt	Ores, concentrates	Mines, concentrating plants	Cobalt metal, oxides, alloys, salts, pigments, frit and all other cobalt products.	Refineries; reduction plants; smelters; chemical producers.
Columbium	Ores; concentrates	Mines; concentrating plants	Columbium metal; ferrocolumbium; ferrotantalum columbium and chemicals; scrap.	Reduction plants; ferroalloy plants; rolling mills, fabricating plants; chemical producers.
Copper	Ores, concentrates, matte, and anode starting sheets.	Mines; mill concentrates; leaching plants; electrolytic plants; primary smelters and refineries.	Copper blister; refined copper; copper and copper-base alloy scrap; brass mill castings; copper-base alloy ingot; copper and copper-base alloy shot and wafile; intermediate shapes; copper precipitates.	Wire mills, brass mills, foundries, ingot makers, and miscellaneous fabricators of copper and copper-base alloys.
Cryolite		Mines, concentrating, grinding and grading mills.	All grades of finished cryolite both natural and synthetic.	Aluminum, metallurgical plants, ceramic plants; glass products, abrasive products, insecticides.
Feldspar	Crude feldspar	Feldspar mines, flotation grinding and grading mills.	Concentrated, ground and graded feldspar.	Ceramic plants.
Fluorspar	Crude ore	Mines, mills, excepting exclusively drying plants.	All grades of finished fluorspar including concentrates.	Producers of refractories, aluminum, steel, chemicals, glass products, ceramics and insecticides.
Gem stones		Gem stone mines and synthesis plants.	Crude, natural and synthetic gem stones.	Jewelry makers, jewel bearing makers.
Germanium		Concentrators, smelters and refineries.	Concentrates, residues, chemicals and metal.	Fabricators and manufacturers of germanium-bearing products.
Graphite	Crude graphite	Graphite mines and mills	Processed and graded graphite	Crucible, pencil, lubricant and paint plants, foundries.
Gypsum	Crude gypsum	Gypsum mines	Gypsum products	Building material plants.
Indium		Concentrators, smelters and refineries.	Concentrates, residues, chemicals and metal.	Fabricators and manufacturers of indium-bearing products.
Iron and steel	Iron ore, concentrates, sinter, including sintered pyrites.	Mines, concentrating plants, sintering plants.	Pig iron; steel castings, ingots and products; scrap; chemical products.	Blast furnaces, steel foundries, plants, fabricators.
Kyanite	Crude ore, mullite	Mines, mills, mullite plants	Refractory products	Producers of refractory products.
Lead	Lead ores, concentrates, base bullion, matte, speiss residues.	Mines, mills, primary smelters and refineries.	Refined pig lead; antimonial lead; alloys made at secondary smelters; lead pigments and chemicals; scrap.	Secondary smelters; pigment manufacturers; chemical plants; battery manufacturers; cable manufacturers; producers of tetraethyl lead, and other fabricators and manufacturers of lead-bearing products.
Limestone and marl	Limestone, dolomite	Mines, quarries, and lime plants	Cement, quick and hydrated lime	Cement plants, concrete products plants, and other cement and lime consumers.
Lithium	Ores	Mines, mills, plants producing lithium concentrates.	Chemicals and metal	Chemical and grease manufacturers; ceramic and glass companies; Atomic Energy Commission.
Magnesite	Ores	Mines, magnesium compound recovery and burning plants.	Refractory grades	Producers of refractories.
Magnesium	Dolomite; magnesite; magnesium chloride.	Dolomite and magnesite mining.	Magnesium ingot, primary, secondary, and alloy; sheet, and all fabricated forms; refractory products.	Reduction plants; melting and refining plants; secondary smelters; foundries, rolling mills, and all other fabricating plants; producers of refractories.
Manganese	Ores, concentrates	Mines, concentrating plants, sintering plants.	Manganese metal; ferromanganese and all other manganese alloys; manganese dioxide; chemical products.	Reduction plants; electro-reduction plants; ferroalloy plants; chemical producers; battery manufacturers.
Mercury	Ores, concentrates	Mines, mills and retorts	Metal	Chemical plants and miscellaneous manufacturers.
Mica	Mica, crude, trimmed, scrap	Mines, mica synthesis units, splitting or processing plants.	Processed mica	Electrical equipment, roofing and wallpaper makers.
Molybdenum	Ores, concentrates	Mines, concentrating plants	Ferromolybdenum; molybdenum metal; molybdenum oxide; calcium molybdate; other alloys and chemicals.	Producers of ferromolybdenum, molybdenum oxide and metal, calcium molybdate and other chemicals and alloys.
Monazite, bastnasite	Monazite, bastnasite	Mines	Rare earth products	Producers of rare earth products.
Nickel	Ores, concentrates	Mines, concentrators; plants producing nickel matte and oxide.	Nickel matte, metal oxide, salts, alloys, scrap and secondary metal and chemicals.	Reduction plants; melters; smelters; chemical producers; nickel platers; producers from secondary sources.
Nitrogen compounds		Mines and refineries	Natural nitrates	Mixed fertilizer plants.
Olivine	Crude ore	Mines, mills	Refractory products	Producers of refractory products.
Perlite	Crude perlite	Perlite mines, mills and expanding plants.	Expanded perlite	Construction firms.
Phosphate rock	Crude prosphate rock	Mines, mills and reduction plants.	Concentrated and graded phosphate rock.	Superphosphate plants.
Platinum-group metals	Unrefined materials, including grain nuggets, ores, concentrates.	Mines, dredges, mills, smelters and refineries.	Refined metals, including bars, grains, sheets, wire, solder.	Jewelers, manufacturers of electrical and chemical equipment and products, dental laboratories, manufacturers of medical equipment, pen-point makers.
Potash	Crude potash	Potash mines and mills, refineries and brine-processing plants.	Potash mill products	Mixed fertilizer plants.
Quartz, raw	Quartz, raw	Mines, grading and cutting plants, synthesis plants.	Crystal units	Electrical products plants.
Roofing granules		Granule plants	Roofing granules	Asphalt roofing plants.
Rutile	Ores	Rutile mining and primary milling and concentrating plants.	Rutile concentrates, ground and graded.	Processing, grinding and secondary milling plants; processors of rutile concentrates.
Salt	Salt crude	Mines, mills, evaporated salt plants.	Evaporated and graded salt, milled and graded salt.	Salt-consuming plants.
	Salt brines	Salt brine wells		
Sand and gravel		Sand pits, sand and gravel plants.	Graded sand and gravel	Construction firms, glass plants, foundries, etc.
Selenium	Selenium-bearing slimes	Selenium producing and refining plants.	Selenium metal, alloys and compounds.	Selenium consumers.
Slag	Crude slag	Slag-processing plants	Processed slag	Construction firms.
Slate	Crude slate	Mines, mills	Split or dimension slate	Construction firms.
Sodium compounds	Natural sodium minerals and brines.	Brine wells, mines and refineries	Refined natural sodium carbonates, sulfate, etc.	Ceramic, paper, detergent plants.

APPENDIX A OF NPA DELEGATION 5—Continued

Commodity Column I	DMPA allocating responsibility Column II	DMPA claimant responsibility Column III	NPA allocating responsibility Column IV	NPA claimant responsibility Column V
Stone:				
Dimension stone	Block stone	Quarries and mills	Dimension stone	Construction firms, monument retailers.
Crushed stone	Broken stone	Burning plants, stone crushing and grading plants.	Crushed and graded stone	Furnace operators, chemical plants, construction firms.
Strontium minerals	Ore	Mines and mills	Strontium mineral concentrates	Chemical plants.
Sulfur and pyrites	Pyrites	Mines producing sulfur or sulfur-bearing ores.	Sulfur and sulfur compounds	Most sulfur acid plants, chemical, paper, and rubber industries.
Talc, pyrophyllite	Crude talc and pyrophyllite, crude block talc.	Mines and mills, block talc processing plants.	Ground and graded talc and pyrophyllite, block talc products.	Ceramic, paint, rubber, insecticide and roofing plants, electrical equipment makers.
Tantalum	Ores; concentrates	Mines; concentrating plants	Tantalum metal, alloys, ferrotantalum columbium, and chemicals; scrap.	Reduction plants; ferroalloy plants; chemical producers.
Tellurium	Tellurium-bearing slimes	Tellurium producing and refining plants.	Tellurium metal, alloys and compounds.	Tellurium consumers.
Thallium	Cottrell dusts, residues from zinc, cadmium and lithopone works; ores (Mercur, Utah).	Mills, plants producing compounds or metal.	Chemicals and metal	Manufacturers of rodenticides, optical crystals, low-melting alloys, heavy liquids.
Tin	Ores, concentrates	Mines, mills, primary smelters and refineries.	Pig tin; oxides and chlorides; scrap	Secondary smelters; tin manufacturers and fabricators.
Titanium	Titanium ores and concentrates except rutile and brookite.	Titanium ore mining, concentration and plants for the production of titanium sponge.	Ferrotitanium and alloys covered by M-80; titanium sponge and alloy ingot, primary and secondary; sheet and all fabricated forms.	Ferrotitanium plants; melting plants and secondary smelters; foundries, rolling mills and all other fabricating plants.
Topaz	Crude topaz	Mines, dredges and concentrating and grinding plant.	Topaz concentrate	Metallurgical plants.
Tungsten	Ores, concentrates and synthetic scheelite.	Mines; concentrating plants; synthetic scheelite plants west of the Mississippi.	Tungsten metal, powder, wire, rod, sheet; ferrotungsten; scrap tungsten chemicals and pigments.	Reduction plants; tungsten powder plants; ferroalloy plants; chemical producers; producers from secondary sources; synthetic scheelite plants east of the Mississippi.
Vanadium	Ores; concentrates; carbonaceous residues containing vanadium.	Mines, concentrating plants	Ferrovanadium; vanadium pentoxide; vanadium metal and other vanadium chemicals and alloys.	Producers of ferrovanadium, vanadium metal, vanadium pentoxide, calcium vanadate and other vanadium chemicals and alloys.
Vermiculite	Concentrates	Vermiculite mines, mills and exfoliating plants.	Exfoliated vermiculite	Producers of vermiculite products.
Wollastonite		Mines and mills	Beneficiated and graded wollastonite	Ceramic plants, etc.
Zinc	Ores, concentrates	Mines, mills, primary smelters and refiners.	Slab zinc; zinc dust; zinc pigments and chemicals; fumes and residues; scrap.	Secondary smelters; ingot makers; pigment manufacturers; chemical plants; galvanizers; die casters; brass mills and other fabricators and manufacturers of zinc or zinc-bearing products.
Zirconium	Zirconium-bearing ores	Zirconium ore mining and concentration plants.	Zirconium metal; zirconium silicon and other alloys as defined in M-80; scrap.	Reduction plants; ferroalloy plants; fabricating plants; rolling mills.

[F. R. Doc. 52-12830; Filed, Dec. 1, 1952; 11:29 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 27567]

SCRAP IRON AND STEEL FROM SOUTHERN TERRITORY TO NEWBERRY, PA.

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Scrap iron and steel, carloads.

From: Points in southern territory.

To: Newberry, Pa.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 950, Supp. 187.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52-12701; Filed, Dec. 1, 1952; 8:48 a. m.]

[4th Sec. Application 27568]

PIG LEAD FROM NORTHWEST, WEST, AND SOUTHWEST, TO RICHMOND, NORFOLK, AND LYNCHBURG, VA.

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to CMStP&P RR. tariff I. C. C. No. B-7498, D&RGW RR. tariff I. C. C. No. 783, and other tariffs.

Commodities involved: Pig Lead, carloads.

From: Points in Idaho, Montana, rado, Utah, and New Mexico.

To: Lynchburg, Norfolk, and Richmond, Va.

Grounds for relief: Competition with rail carriers and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52-12702; Filed, Dec. 1, 1952; 8:49 a. m.]

[4th Sec. Application 27569]

SULPHURIC ACID FROM BATON ROUGE AND NORTH BATON ROUGE, LA., TO BREWSTER, FLA.

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Sulphuric acid, in tank-car loads.

From: Baton Rouge and North Baton Rouge, La.

To: Brewster, Fla.

Grounds for relief: Competition with rail carriers, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1200, Supp. 69.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52–12703; Filed, Dec. 1, 1952; 8: 49 a. m.]

[4th Sec. Application 27570]

BENZOL (BENZINE) FROM MINNEQUA, COLO., TO FOX, GADSDEN, AND TUSCALOOSA, ALA.

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. J. Hennings, Alternate Agent, for carriers parties to his tariff I. C. C. No. A–3589.

Commodities involved: Benzol (benzine), in tank-car loads.

From: Minnequa, Colo.

To: Fox, Gadsden, and Tuscaloosa, Ala.

Grounds for relief: Competition with rail carriers, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. J. Hennings' tariff I. C. C. No. A–3589, Supp. 15.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52–12704; Filed, Dec. 1, 1952; 8:50 a. m.]

[4th Sec. Application 27571]

LIQUEFIED PETROLEUM GAS, FROM DURKEE, WYO., TO BOZEMAN, MONT.

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: Chicago Burlington & Quincy Railroad Company, for itself, the Great Northern Railway Company, and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

Commodities involved: Liquefied petroleum gas, in tank-car loads.

From: Durkee, Wyo.

To: Bozeman, Mont.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: CB&Q RR. I. C. C. No. 20362, Supp. 3.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52–12705; Filed, Dec. 1, 1952; 8:50 a. m.]

[4th Sec. Application 27572]

ELECTRICAL GOODS FROM BROOKLYN AND NEW YORK, N. Y., AND ELIZABETHPORT AND MANVILLE, N. J., TO ANDERSON, S. C.

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. W. Boin, Agent, for carriers parties to his tariff I. C. C. No. A–968.

Commodities involved: Electric motors, etc., in mixed carloads.

From: Brooklyn and New York, N. Y., and Elizabethport and Manville, N. J.

To: Anderson, S. C.

Grounds for relief: Rail and motor competition and circuitous routes.

Schedules filed containing proposed rates: C. W. Boin, Agent, I. C. C. No. A–968, Supp. 1.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52–12706; Filed, Dec. 1, 1952; 8:50 a. m.]

[4th Sec. Application 27573]

PEANUTS FROM SOUTHWESTERN POINTS TO ALTOONA AND HERSHEY, PA.

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmier, Agent, for carriers parties to his tariff I. C. C. No. 3835.

Commodities involved: Peanuts, shelled, not salted, carloads.

From: Specified points in Arkansas, New Mexico, Oklahoma, and Texas.

To: Altoona and Hershey, Pa.

Grounds for relief: Competition with rail carriers, circuitous routes, and operation through higher-rated territory.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3835, Supp. 46.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52–12707; Filed, Dec. 1, 1952; 8:50 a. m.]

[4th Sec. Application 27574]

LUMBER FROM WISCONSIN TO WESTERN TRUNK LINE POINTS

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. J. Hennings, Alternate Agent, for carriers parties to his tariff I. C. C. No. A–3640.

Commodities involved: Lumber and related articles, in carloads.

From: Stations on the GB&W RR., Green Bay to New London, Wis., inclusive.

To: Points in western trunk-line territory, including Montana.

Grounds for relief: Competition with rail carriers, circuitous routes, and operation through higher-rated territory.

Schedules filed containing proposed rates: C. J. Hennings' tariff I. C. C. No. A–3640, Supp. 53.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52–12708; Filed, Dec. 1, 1952; 8:51 a. m.]

[4th Sec. Application 27575]

SUGAR FROM CALIFORNIA TO TEXAS AND ARKANSAS

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. J. Hennings, Alternate Agent, for carriers parties to his tariff I. C. C. No. 1547.

Commodities involved: Beet or cane sugar, carloads.

From: Specified points in California.

To: Points in Texas, in specified groups, also Texarkana, Ark.-Tex.

Grounds for relief: Rail and market competition, circuity, grouping, and to maintain rate relations with other origins.

Schedules filed containing proposed rates: C. J. Hennings tariff I. C. C. No. 1547, Supp. 80.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52–12709; Filed, Dec. 1, 1952; 8:51 a. m.]

[4th Sec. Application 27576]

BRICK, DRAIN TILE, AND RELATED ARTICLES FROM UTICA, MO., TO MINNESOTA

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. J. Hennings, Alternate Agent, for carriers parties to his tariff I. C. C. No. A–3686.

Commodities involved: Brick, drain tile, and related articles, carloads.

From: Utica, Mo.

To: Stations in southern Minnesota.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. J. Hennings I. C. C. No. A–3686, Supp. 65.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52–12710; Filed, Dec. 1, 1952; 8:51 a. m.]

[4th Sec. Application 27577]

MEATS AND PACKING HOUSE PRODUCTS FROM SPENCER, IOWA, TO SOUTHERN TERRITORY

APPLICATION FOR RELIEF

NOVEMBER 26, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. J. Hennings, Alternate Agent, for carriers parties to his tariff I. C. C. No. A–3911.

Commodities involved: Fresh meats and packing house products, carloads.

From: Spencer, Iowa.

To: Points in southern territory.

Grounds for relief: Circuity, grouping, additional origin, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. J. Hennings' I. C. C. No. A–3911, Supp. 14.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they

intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52–12711; Filed, Dec. 1, 1952; 8:51 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Price Stabilization

[Ceiling Price Regulation 32, Supplementary Regulation 2, Section 3, Special Order 37]

SOUTHERN LOUISIANA

CRUDE PETROLEUM CEILING PRICES ADJUSTED ON AN IN-LINE BASIS FOR CERTAIN FIELDS

Statement of considerations. This special order adjusts the ceiling price for the sale of crude petroleum produced from the following listed Southern Louisiana fields:

Fields	*Parishes*
Anse La Butte	Lafayette and St. Martin.
Arnaudville	St. Martin.
Bay Baptiste	Terrebonne.
Bayou des Allemands	St. Charles and Lafourche.
Bayou des Glaise	Iberville.
Bayou Jean Lacroix	Terrebonne.
Bayou Mallet	Acadia.
Bayou Perot	Jefferson.
Bayou Plaquemines	Iberville.
Bayou Sale	St. Mary.
Bourg	Terrebonne.
Branch	Acadia.
Burton	St. James.
Cankton	St. Landry.
College Point/St. James	St. James.
Crowley	Acadia.
DeLarge	Terrebonne.
Delta Farms	Lafourche and Jefferson.
Duck Lake	St. Martin.
Dulac	Terrebonne.
East Golden Meadow	Lafourche.
East Lake Verret	Assumption.
Fordoche	Pointe Coupee.
Gross Tete	West Baton Rouge.
Iberia	Iberia.
Krotz Springs	St. Landry.
Lake Raccourci	Lafourche.
Lake Sand	Iberia.
Lapeyrouse	Terrebonne.
Laurel Ridge	Iberville.
Lirette	Terrebonne.
Lottie	Pointe Coupee.
Napoleonville	Assumption.
North Cankton	St. Landry and Lafayette.
North Crowley	Acadia.
North Jeanerette	St. Mary.
Northwest Branch	Acadia.
Opelousas	St. Landry.
Pine Prairie	Evangeline.
Port Barre	St. Landry.
Potash	Plaquemines.
Raceland	Lafourche.
Roanoke	Jefferson Davis.
Savoy	St. Landry.
Sherburne	Pointe Coupee.
Shuteston	St. Landry.
South Shuteston	St. Landry.
South Bayou Mallet	Acadia.
St. Martinville	St. Martin.
Valentine	Lafourche.
Westwego	Jefferson.

The Office of Price Stabilization has been requested to eliminate the differentials heretofore imposed upon crude petroleum produced from the above Southern Louisiana Fields. During the base period there was a lack of competitive factors and curtailed production of condensate caused by a lack of outlets for natural gas and as a result, this crude condensate was sold at a lower price than that paid for crude condensate of comparable quality produced in this same general area. It appears that this condition has now been eliminated and these differentials should no longer be imposed.

From the information available to this Office, it appears that the requested ceiling price of $2.85 per barrel flat does not exceed the ceiling price of comparable crude condensate produced in this same area.

Special provisions. For the reasons set forth in the Statement of Considerations and pursuant to the provisions of section 3 of Supplementary Regulation 2 to Ceiling Price Regulation 32, *It is ordered:*

1. That the ceiling price at the lease receiving tank for crude condensate produced from the above listed Southern Louisiana Fields shall be: $2.85 per barrel flat.

2. All provisions of Ceiling Price Regulation 32, except as inconsistent with the provisions of this order, shall remain in full force and effect as to the commodities covered by this order.

3. This order may be amended, modified or revoked by the Director of Price Stabilization at any time.

Effective date. This special order shall become effective on November 22, 1952.

TIGHE E. WOODS,
Director of Price Stabilization.

NOVEMBER 21, 1952.

[F. R. Doc. 52–12554; Filed, Nov. 21, 1952; 12:43 p. m.]

[Ceiling Price Regulation 32, Supplementary Regulation 2, Section 3, Special Order 38]

MARIPOSA FIELD, BROOKS COUNTY, TEXAS

CRUDE DISTILLATE CEILING PRICES ADJUSTED ON AN IN-LINE BASIS

Statement of considerations. This special order adjusts the ceiling price for the purchase of crude distillate produced from the Mariposa Field, Brooks County, Texas.

The Office of Price Stabilization has been requested to eliminate the differentials heretofore imposed upon crude distillate produced from the Mariposa Field, Brooks County, Texas. During the base period there was a lack of competitive factors and as a result, this crude petroleum was sold at a lower price than that paid for crude distillate of comparable quality produced in this same general area. It appears that this condition has now been eliminated and these differentials should no longer be imposed.

From the information available to this Office, it appears that the requested price of $2.80 per barrel for 40° API gravity and above with a 2-cent differential less for each degree of gravity below 40°, down to $2.38 per barrel for below 20° API gravity does not exceed the ceiling price of comparable crude distillate produced in the same area.

Special provisions. For the reasons set forth in the Statement of Considerations and pursuant to the provisions of section 3 of Supplementary Regulation 2 to Ceiling Price Regulation 32, *It is ordered:*

1. That the ceiling price at the lease receiving tank for crude distillate produced from the Mariposa Field, Brooks County, Texas, shall be: $2.80 per barrel for 40° API gravity and above with a 2-cent differential less for each degree of gravity below 40°, down to $2.38 per barrel for below 20° API gravity.

2. All provisions of Ceiling Price Regulation 32, except as inconsistent with the provisions of this order, shall remain in full force and effect as to the commodities covered by this order.

3. This order may be amended, modified or revoked by the Director of Price Stabilization at any time.

Effective date. This special order shall become effective on November 22, 1952.

TIGHE E. WOODS,
Director of Price Stabilization.

NOVEMBER 21, 1952.

[F. R. Doc. 52–12555; Filed, Nov. 21, 1952; 12:43 p. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 4034 et al.]

INDIANA-OHIO LOCAL SERVICE CASE; REOPENED

NOTICE OF HEARING

Notice is hereby given that pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 401 (h) and 1001 of said act, the above-entitled proceeding is assigned for hearing on December 4, 1952, at 10:00 a. m., e. s. t., in Room 4823, Commerce Building, Fourteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner James S. Keith.

The reopened hearing is limited to receiving additional evidence on the fitness, willingness and ability of Lake Central,

(a) Under the management contemplated by the trust agreement referred to in the Board's Order, E–6984, of November 25, 1952, and

(b) With respect to the carrier's financing plans, to engage properly in the air transportation to be authorized over route 88 in Docket No. 4034 et al., and to comply with the act and the Board's rules, regulations and requirements thereunder.

Dated at Washington, D. C., November 26, 1952.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 52–12750; Filed, Dec. 1, 1952; 8:59 a. m.]